

4 DECEMBER 1947

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1 Thursday, 4 December 1947

2 - - -

3 INTERNATIONAL MILITARY TRIBUNAL  
4 FOR THE FAR EAST  
5 Court House of the Tribunal  
6 War Ministry Building  
7 Tokyo, Japan

8 The Tribunal met, pursuant to adjournment,  
9 at 0930.

10 Appearances:

11 For the Tribunal, all Members sitting, with  
12 the exception of: HONORABLE JUSTICE SIR WILLIAM F.  
13 WEBB, Member from the Commonwealth of Australia, not  
14 sitting from 0930 to 1600.

15 For the Prosecution Section, same as before.

16 For the Defense Section, same as before.

17 - - -

18 (English to Japanese and Japanese  
19 to English interpretation was made by the  
20 Language Section, IMTFE.)  
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1 MARSHAL OF THE COURT: The International  
2 Military Tribunal for the Far East is now in  
3 session.

4 ACTING PRESENT: All the accused are present  
5 except MATSUI, who is represented by counsel. We  
6 have a certificate from the prison surgeon at Sugamo  
7 certifying that he is ill and unable to attend the  
8 trial today. The certificate will be recorded and  
9 filed.

10 With the Tribunal's permission the accused  
11 SHIMADA and SHIRATORI will be absent from the court-  
12 room the whole of the morning session conferring  
13 with their counsel.

14 Captain Kraft.

15 LANGUAGE ARBITER (Captain Kraft): If the  
16 Tribunal please, the following language corrections  
17 are submitted:

18 Reference exhibit 3516-A, line 10 from bottom  
19 of page 2 and record page 34,156, line 1: Delete  
20 "on the pretext of the Danzig problem" and substitute  
21 "by seizing the moment presented by the Danzig prob-  
22 lem."

23 Reference exhibit 43, first paragraph, line  
24 6, and record page 34,190, line 18: Delete "its own  
25 race" and substitute "the peoples concerned."

Reference page 34,148, lines 7 to 10:

1 Delete "However, it may be possible that the offic-  
2 ial in charge of economic affairs in my embassy may  
3 have talked with Wiehl about something that I told  
4 this officer in charge" and substitute "However. it  
5 may be possible that I talked with Wiehl about  
6 something that the official in charge of economic  
7 affairs in my embassy may have told me."  
8

9 ACTING PRESIDENT: Mr. Furness.

10 MR. FURNESS: If the Court please, I shall  
11 now read exhibit 3540, admitted into evidence at the  
12 close of yesterday's session. I omit the formal  
13 parts.

14 "I, MORIYA, Kazuro, after having been duly  
15 sworn according to the Japanese formula, make the  
16 following statement of my own free will:

17 "I am 55 years of age and reside at No. 74.  
18 Nishi-gahara-machi, Kita Ward, Tokyo, Japan.

19 "1. I graduated from the Faculty of Law,  
20 Tokyo Imperial University, in July, 1917, and  
21 entered the Foreign Service at the end of 1923. I  
22 remained in the service of that Ministry for seven-  
23 teen years until I resigned as Minister accredited  
24 to Afghanistan in December, 1940. During the period  
25 from November, 1929, to 1932, I served about three



1 years as First Secretary of Legation under Mr.  
2 SHIGEMITSU, who was at first Consul General at Shang-  
3 hai and concurrently Counsellor of Embassy, and later  
4 Minister accredited to China.

5 "2. At the beginning of September, 1931,  
6 when I was First Secretary of Legation under Minister  
7 SHIGEMITSU he made a proposal to Mr. T. V. Soong,  
8 the Finance Minister of the Chinese Government, that  
9 the actual situation in Manchuria be investigated  
10 together, as Minister SHIGEMITSU was anxious about  
11 the situation then prevailing in that part of China.  
12 lest it should affect Sino-Japanese relations, and  
13 had at the same time a desire to open negotiations  
14 for revision of the Sino-Japanese Treaty of Commerce.  
15 Mr. Soong's consent having been obtained, Minister  
16 SHIGEMITSU planned to take a boat on September 8,  
17 1931, from Shanghai to Dairen, Manchuria, taking  
18 with him Mr. HAYASHIDE, Secretary-Interpreter of  
19 Legation, and myself, who was then in charge of the  
20 question of treaty revision. We were making prepara-  
21 tions for the trip in strict secrecy, having contact  
22 with Count Yasuya UCHIDA, President of the South  
23 Manchuria Railway, who was in Dairen and who it was  
24 planned was to take part in the conferences. Unfor-  
25 tunately, however, Minister SHIGEMITSU was suddenly

1 taken ill with a cold and had a high temperature due  
2 to tonsillitis and so could not travel. We were un-  
3 able to start as scheduled, and were obliged to wait  
4 for the next boat, which would be available about ten  
5 days later. Information to this effect was given to  
6 Mr. T. V. Soong, who had planned to proceed by land  
7 to Mukden via Peking. As Mr. SHIGEMITSU's health  
8 soon improved, a new plan was made to depart on  
9 September 20. Just at that time a telegram came, at  
10 noon on September 19, reporting the occurrence of an  
11 incident at Liu-teao-kou. His planned trip to Man-  
12 churia was thus frustrated. All this information  
13 came to me as part of my official duties in the Lega-  
14 tion.

15 "3. In January, 1932, while I was in Shang-  
16 hai, where the main office of our Legation was loca-  
17 ted, the first Shanghai incident broke out. Clashes  
18 between Japanese marines and Chinese soldiers took  
19 place in the middle of that month, when I was Charge  
20 d' Affaires ad interim in the absence of Minister  
21 SHIGEMITSU in Japan. It was on the 30th or 31st  
22 of January that the Minister returned to his post by  
23 boat. I took a launch to meet him before he landed,  
24 and had an opportunity for communicating with him  
25 before he talked with any other person. He was ill-



1 humored that day, and repeatedly told me his dis-  
2 satisfaction at the outbreak of the clashes between  
3 the troops, while he expressed his firm determina-  
4 tion to settle the situation by peaceful means.

5 "4. Upon landing, Minister SHIGEMITSU began  
6 to make every effort to realize a truce as soon as  
7 possible. Even before formal conferences under the  
8 procedure proposed by the League of Nations started,  
9 he had many informal conferences with Sir Miles Lamp-  
10 son, the British Minister, and Mr. Nelson Trusler  
11 Johnson, the American Minister. At his request they  
12 got in touch with the Chinese General in the height  
13 of the hostilities and a temporary truce was effected  
14 in order to allow Chinese non-combatants to evacuate  
15 Chapei, in which hostilities centered, thus saving the  
16 civilian population from the full effect of the fight-  
17 ing. During its course he persuaded the officers in  
18 command of the Japanese forces to limit the fighting  
19 to Shanghai and the adjacent area, and not to advance  
20 further into China. It was just at the time when the  
21 Agreement for the Cessation of Hostilities around  
22 Shanghai was almost concluded that Minister SHIGEMITSU  
23 had the misfortune to be wounded seriously by a bomb  
24 explosion. The bomb was thrown on April 29 during  
25 the celebration of the Emperor's birthday in New Park,

1 Shanghai. I was on the spot with several of my  
2 colleagues of the Legation and transported the Min-  
3 ister to the hospital. In spite of his serious wounds,  
4 he could not forget the Agreement for the Cessation  
5 of Hostilities, and immediately dictated and ordered  
6 us to telegraph to Foreign Minister YOSHIZAWA his  
7 view of the matter, which was that, owing to his  
8 wounds, he would be unable to attend to his daily  
9 business for some time, but that he strongly urged  
10 the conclusion of the Agreement should not be  
11 hindered or delayed because of the bomb incident,  
12 which had injured him and others, since the conclusion  
13 of the truce agreement was from the viewpoint of  
14 national policy of the utmost importance.

15 "5. I was present at the ceremonial signing  
16 of the Agreement for the Cessation of Hostilities in  
17 the British Consulate General on May 5, 1932. In the  
18 course of the ceremonies the Agreement was taken to  
19 the bedsides of Mr. SHIGEMITSU, General UEDA, and the  
20 Chinese delegate, Mr. Quo Tai-chi, all of whom were  
21 in different hospitals, General UEDA having been  
22 injured by the same bomb as Mr. SHIGEMITSU and the  
23 Chinese delegate in an assault by students. Mr.  
24 SHIGEMITSU's leg was amputated an hour or so after he  
25 signed."



1 MR. FURNESS: I now offer in evidence defense  
2 document 2705, a certificate of non-availability of the  
3 telegram sent concerning the agreement of cessation of  
4 hostilities around Shanghai.

5 ACTING PRESIDENT: It will be admitted.

6 CLERK OF THE COURT: Defense document 2705 will  
7 receive exhibit No. 3541.

8 (Whereupon, the document above re-  
9 ferred to was marked defense exhibit No.  
10 3541 and received in evidence.)

11 MR. FURNESS: It will be unnecessary to read  
12 this document.

13 Prosecution witness J. B. Powell also testified,  
14 both on direct examination, transcript page 3252, and on  
15 cross-examination, transcript pages 3261 to 3263, regard-  
16 ing the successful efforts of the accused SHIGEMITSU to  
17 prevent the expansion and to end the first Shanghai  
18 Incident.

19 I offer in evidence defense document 2905, a  
20 certificate of the Editor of the North China Daily News,  
21 a British newspaper published in Shanghai at the time of  
22 the Incident, certifying copies of dispatches of May 1,  
23 1932 and May 6, 1932, which are contemporary accounts  
24 corroborating the statements in the affidavit of MORIYA  
25 regarding the sending of messages on the night of grave

injuries to the accused.

I will read only the last paragraph on page 2, and I will agree that that will be the only part considered in evidence.

ACTING PRESIDENT: General Vasiliev.

GENERAL VASILIEV: I object to the introduction of this document on two grounds. First of all, these are newspaper articles by some correspondent, and up till now newspaper articles have not been considered good evidence at this trial. Then, in this newspaper article of April 30, the author says that it seems to him, and that somebody told him, and so much more so this newspaper article has no probative value whatsoever.

ACTING PRESIDENT: Are you addressing your remarks just to that last paragraph on page 2 -- four lines?

GENERAL VASILIEV: Yes, sir. This is an article of April 30, and in the part you are speaking about, your Honor, there is a statement and it is unknown by whom it is made.

MR. FURNESS: If the Court please, this objection, I must admit, comes as somewhat of a surprise to me. I submitted this document to the prosecution and was told that if that last paragraph was the only part to be considered in evidence there would be no objection.



1 Many newspaper articles have been introduced  
2 by the prosecution, some within the past two days. This  
3 is obviously the report of somebody who knew about which  
4 he was speaking, and is merely offered as contemporary  
5 corroboration of what the witness MORIYA testified to in  
6 his affidavit.

7 ACTING PRESIDENT: By a majority, the objection  
8 is overruled. The document will be accepted in evidence.

9 CLERK OF THE COURT: Defense document No. 2905  
10 will receive exhibit No. 3542.

11 (Whereupon, the document above re-  
12 ferred to was marked defense exhibit No.  
13 3542 and received in evidence.)

14 MR. FURNESS: I will read only the paragraph to  
15 which I referred:

16 "Despite his severe injuries it is revealed  
17 that Mr. SHIGEMITSU dictated a number of despatches to  
18 the government describing the Incident and regretting  
19 his own inability to continue negotiations at present,  
20 but stressing the importance of concluding the truce  
21 agreement as soon as possible.--Reuter."

22 This Agreement for Cessation of Hostilities  
23 Around Shanghai is exhibit 2419, page 19571 of the tran-  
24 script. One of the signers was Sir Miles Lampson, then  
25 His Britannic Majesty's Minister in China, now Lord

1 Killlearn, Special Commissioner in Southeast Asia in  
2 Singapore, and I tender his statement, defense document  
3 2873, in evidence.

4 ACTING PRESIDENT: General Vasiliev.

5 GENERAL VASILIEV: The prosecution does not  
6 object to the admission of this document, with the ex-  
7 ception of the last sentence of paragraph 2, beginning  
8 with the words, "On the Japanese side" and to the end,  
9 as this sentence is a personal conclusion of the witness.

10 MR. FURNESS: Language Section, will you take  
11 defense document 2684 and argument B?

12 This is evidence of the attitude of this de-  
13 fendant, a relevant fact. There is ample precedent for  
14 its admission. In my cross-examination of the prosecu-  
15 tion witness SHIDEHARA, the President of the Tribunal, in  
16 overruling the prosecution objection to such evidence,  
17 stated: "How otherwise could the witness state the  
18 accused SHIGEMITSU's attitude? It is a relevant fact."  
19 (Record page 1575.)

20 It is my contention that this is not character  
21 evidence. It is the attitude of this accused on a par-  
22 ticular occasion, and is obviously relevant to disprove  
23 one of the allegations of the prosecution's Indictment.

24 ACTING PRESIDENT: By a majority, the objection  
25 is overruled and the document admitted.



CLERK OF THE COURT: Defense document No. 2873

1 will receive exhibit No. 3543.

2 (Whereupon, the document above re-  
3 ferred to was marked defense exhibit No.  
4 3543 and received in evidence.)

5 MR. FURNES (Reading): "I, Right Honourable  
6 Baron Killearn, hereby certify that Mr. Mamoru  
7 SHIGEMITSU was well known to me when he was Japanese  
8 Minister to China.

9  
10 "In the spring of 1932 when fighting broke out  
11 in the suburbs of Shanghai between Japanese and Chinese  
12 forces, I, with other neutral colleagues, endeavoured to  
13 put a stop to hostilities and to prevent them from  
14 spreading and to this end arranged meetings attended by  
15 both Japanese and Chinese representatives. On the  
16 Japanese side Mr. SHIGEMITSU from the outset cooperated  
17 wholeheartedly and much of the credit for reaching an  
18 agreement was due to his persistent efforts and patient  
19 cooperation.

20  
21 "When agreement had been signed he was un-  
22 fortunately seriously wounded in a terrorist outrage.  
23 Despite the fact that he was in severe pain he refused  
24 to allow his injuries to hold up the signature of the  
25 agreement which was accordingly taken to him in hospital  
where he signed it.

"(Signed) Killearn."

1 I now tender in evidence defense document 2684,  
2 the affidavit of another of the signers of this Agree-  
3 ment, Nelson Trusler Johnson, then American minister in  
4 China, now secretary of the Far Eastern Commission.  
5

6 I will read only the first sentence of the  
7 second paragraph, and the third and fourth paragraphs.

8 ACTING PRESIDENT: It will be admitted in  
9 evidence.

10 CLERK OF THE COURT: Defense document No.  
11 2684 will receive exhibit No. 3544.

12 (Whereupon, the document above re-  
13 ferred to was marked defense exhibit No.  
14 3544 and received in evidence.)

15 MR. FURNESS: Omitting the formal parts, I  
16 read that exhibit:

17 "I, Nelson Trusler Johnson, being of lawful age  
18 and first duly sworn upon oath, depose and say:

19 "I was United States Minister to China during  
20 the period August 6, 1931 to June 10, 1932, when Mamoru  
21 SHIGEMITSU was Japanese Minister to China and my  
22 colleague."  
23

24 Skipping the next sentence, second paragraph:

25 "From the time when hostilities between Japan  
and China broke out at Shanghai, China in January 1932



1 to the signing of the truce that ended those hostilities  
2 on May 5, 1932, Mr. SHIGEMITSU devoted all his time and  
3 energy first to finding means of bringing his own country-  
4 men and the Chinese to discussions aimed at ending the  
5 strife, and latterly with me, the British Minister, Sir  
6 Miles Lampson (now Lord Killearn), M. Wilden, the French  
7 Minister, and Count Ciano, the Italian Minister, to  
8 bring these discussions to a successful conclusion with  
9 the truce agreement of May 5, 1932.

10 "That agreement had to be taken to the bedside  
11 of Mamoru SHIGEMITSU at a hospital, where he lay  
12 seriously wounded by an assassin's bomb, thrown onto the  
13 speakers' platform where he and other Japanese speakers  
14 were standing on April 29th. Throughout this difficult  
15 time Mr. SHIGEMITSU spared no effort to localize the  
16 incident, and contributed decisively to the creation of  
17 an atmosphere of friendliness, making possible a truce  
18 and the withdrawal of the considerable Japanese military  
19 forces landed around Shanghai."  
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ACTING PRESIDENT: General Vasiliev.

1 GENERAL VASILIEV: As far as I understand,  
2 according to the agreement that we had with the de-  
3 fense, the last half of the last paragraph shouldn't  
4 have been read as it contains pure characterization  
5 of SHIGEMITSU. Therefore, I ask that the last part  
6 of the last paragraph, which contains pure character  
7 evidence as far as SHIGEMITSU is concerned, be deleted.  
8 Evidently, I did not understand Mr. Furness properly.  
9 It seems to me that Mr. Furness would adhere to the  
10 agreement that we had on that account.  
11

12 MR. FURNESS: If the Court please, I did  
13 not agree to striking out that last sentence of the  
14 fourth paragraph. I said that I would argue it as  
15 Mr. SHIGEMITSU's attitude. I said very definitely  
16 what I agreed when I offered the document.  
17

18 GENERAL VASILIEV: I can only observe that  
19 it is enough to glance through the second part of  
20 the last paragraph to see that it confirms only  
21 character evidence as far as SHIGEMITSU is concerned  
22 and is an expression of the personal opinion of the  
23 witness. In this paragraph, SHIGEMITSU is character-  
24 ized as being sympathetic, frank, honest, sincere,  
25 and so on. How otherwise can we call this but  
character evidence?



1 MR. FURNESS: If the Court please, I did  
2 not read that paragraph to which the General refers.  
3 Therefore, I think we must be talking about different  
4 sentences.

5 GENERAL VASILIEV: I am sorry, your Honor,  
6 I withdraw my objection. I have been advised about  
7 that.

8 MR. FURNLSS: Thank you, General.  
9 I tender for identification the book en-  
10 titled "Sino-Foreign Treaty Series," published in  
11 1936 by the Commercial Press, a publishing company  
12 of Shanghai, China.

13 ACTING PRESIDENT: It will be admitted in  
14 evidence.

15 CLERK OF THE COURT: The book entitled  
16 "Protocol of Borderlines" written in Japanese will  
17 receive exhibit No. 3545 for identification only.

18 ACTING PRESIDENT: Is that printed in Japan-  
19 ese or Chinese?

20 MR. FURNESS: I might correct the Clerk. I  
21 think the book is not entitled the "Protocol." It is  
22 entitled "Sino-Foreign Treaty Series."

23 CLERK OF THE COURT: That may be correct,  
24 but that is the way it was handed to us.

25 MR. FURNESS: The excerpt which I planned

23 maps, if any, --

24 bearing official seals or other symbols

25 I understand that this request was made but brought

ity.

1 MR. FURNESS: If the Court please, I did  
2 not read that paragraph to which the General refers.  
3 Therefore, I think we must be talking about different  
4 sentences.

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19 ese or Chinese?  
20

21 MR. FURNESS: I might correct the Clerk. I  
22 think the book is not entitled the "Protocol." It is  
23 entitled "Sino-Foreign Treaty Series."

24 CLERK OF THE COURT: That may be correct,  
25 but that is the way it was handed to us.

MR. FURNESS: The excerpt which I planned



1 to tender in evidence is entitled what the Clerk  
2 called it. It is in Chinese. Might I, then, ask the  
3 Clerk to change the title of the exhibit to "Sino-  
4 Foreign Treaty Series" in Chinese?

5 CLERK OF THE COURT: The change will be  
6 made in accordance with counsel's request.

7 (Whereupon, the book "Sino-  
8 Foreign Treaty Series" was marked defense  
9 exhibit No. 3545 for identification.)

10 MR. FURNESS: In the course of the Russian  
11 phase of the general defense I tendered in evidence  
12 the Chinese text of the Hunchun Powder Protocol, 1886,  
13 as it appeared in another collection of treaties  
14 entitled "Diplomatic Documents During the Ching  
15 Dynasty" published in China. The Court then required  
16 that the original be tendered or its non-availability  
17 be accounted for, transcript page 23,914. The Tri-  
18 bunal then issued an order, Paper 1020, requesting  
19 the Supreme Commander to communicate with the Govern-  
20 ment of China by telegram to request the original or  
21 a photostatic copy thereof duly certified, of the  
22 Chinese text of this protocol together with map or  
23 maps, if any, annexed or attached to said document,  
24 bearing official seals or other symbols of authority.  
25 I understand that this request was made but brought

1 no result. When I was in China, however, I visited  
2 the Foreign Ministry of China, and I was given a  
3 certificate of non-availability, defense document  
4 2706A, which I now tender in evidence.

5 ACTING PRESIDENT: It may be admitted.

6 CLERK OF THE COURT: Defense document No.  
7 2706A will receive exhibit No. 3545A.

8 (Whereupon, document 2706A was  
9 marked defense exhibit No. 3545A and  
10 received in evidence.)

11 MR. FURNESS: I will read that exhibit:

12 "The Ministry of Foreign Affairs, Republic  
13 of China.

14 "Nanking, September 12, 1947.

15 "To Whom It May Concern:

16 "This is to certify that search has been  
17 made in the archives of the Ministry of Foreign Af-  
18 fairs of the Chinese Government for the original  
19 Chinese text of Annex I to the Protocol between China  
20 and Russia on the Border East of Hunchun, signed at  
21 Yench'u, Russia, on June 3, 1886, together with the  
22 map or maps, if any, annexed or attached to said  
23 document, and bearing the official seals or other  
24 symbols of authority of the signers of said Protocol  
25 and that the said document and the map or maps are



1 not at present available for production for the purp-  
2 ose or lodging the same with the International Mili-  
3 tary Tribunal for the Far East nor for making a photo-  
4 static copy thereof. The Chinese Government, however,  
5 regards the text of the said Protocol as printed on  
6 page 348 of Sino-Foreign Treaty Series, published  
7 by the Commercial Press, Shanghai, China in February  
8 1936 to be a correct copy of the said Protocol."

9 I now tender in evidence defense document  
10 2706, the excerpt from that book referred to, the  
11 Chinese text of the Protocol, Annex I of the Hunchun  
12 Protocol, and the certificate of the translator,  
13 defense document 2706B, that the text is identical  
14 with the one he had previously translated. The  
15 English text should be corrected on line 3, the  
16 page number, from 346 to 348.

17 ACTING PRESIDENT: General Vasiliev.

18 GENERAL VASILIEV: Your Honor, I object to  
19 the introduction of this document. This document  
20 contains the text of the Hunchun Agreement of 1886  
21 with regard to the demarcation of the border in the  
22 vicinity of Lake Khasan. We have already introduced  
23 the official Russian text of this agreement with the  
24 English and Japanese translations of a certain part,  
25 exhibit 753. I emphasize that we have already intro-

1     duced the official text, the photostatic copy of the  
2     original, kept and preserved from 1886. There are  
3     no grounds for anybody to question its authenticity.  
4     We introduced the full text of the Agreement with  
5     the map mentioned therein. The defense wants to  
6     refute our text. It could have been done from a  
7     legal point of view only by comparing this text with  
8     the other official original drawn up in 1886 in the  
9     Chinese language. However, the second original is  
10    not available. There is a certificate to that effect  
11    given by Vice-Foreign Minister of China. The defense  
12    is introducing the text which is only regarded as  
13    official. This text was published not in an offi-  
14    cial publication but by some private publishing  
15    house in 1936 in Shanghai, and this publishing house  
16    certainly could not have the original at their dis-  
17    posal, and it is not revealed from which documents  
18    the text included in the volume was taken.

19         The text of the Hunchun Protocol is only  
20    one half of the agreement. The second half is the  
21    map of which there is direct mention in the last  
22    sentence of the protocol. This map is not being  
23    introduced by the defense. Evidently the volume does  
24    not contain it. If the Tribunal admits the text of  
25    the agreement introduced by the defense, then it would



1 create an absolutely inconceivable precedent in the  
2 history of international law when an official inter-  
3 national agreement is refuted by an unofficial text  
4 and when the whole agreement is challenged by intro-  
5 duction of only ~~one~~ half of it. If the defense  
6 hasn't got the full official text, that is to say,  
7 the authentic original of the protocol in the Chinese  
8 language, plus the map, then it follows from that  
9 that they have no legal grounds for challenging the  
10 other original text which is available and has been  
11 presented to this Tribunal. The defense should have  
12 reconciled itself with this fact and should not have  
13 acted contrary to the generally accepted rules of  
14 international law. I submit that this document is  
15 inadmissible and should be rejected.

16 MR. FURNESS: If the Court please, this is  
17 the translation of the Chinese text of the protocol.  
18 Both the Russian and Chinese texts are original  
19 documents, not translations of each other. Both are  
20 entitled to equal dignity. The Chinese text, since  
21 Manchukuo was at the time of the signing of the  
22 protocol definitely Chinese territory, was the basis  
23 of the Manchukuoan claim that the borderline ran  
24 around the west side of Lake Khasan, not over the  
25 tops of the hills, including Hill Changkufeng to the

west of Lake Khasan as claimed by the Soviet Union.

1           Exhibit 753, which quotes only a short  
2 excerpt, is the only evidence of this Russian claim.  
3 Photostatic copy of the Annex, 2175, is not in evi-  
4 dence. The only part in evidence is the map. So  
5 far as the text is concerned, no translation of  
6 this complete Russian text and 2175 has ever been  
7 furnished, and it is my understanding that documents  
8 not translated in English and Japanese are not in  
9 evidence.  
10

11           The Tribunal, by an official order, requested  
12 the Republic of China to furnish us with the original  
13 text and with maps, if any, attached. The second man  
14 in the Foreign Ministry of China has certified that  
15 neither are available. The Foreign Office of China  
16 is the only place where we can go to get such a text,  
17 and they say it is not available and that it cannot  
18 be furnished to the Tribunal. They say the same  
19 thing about the maps, if any are attached. I would  
20 produce the original Chinese text if I could. I  
21 would produce the original maps if I could. But  
22 all my efforts, even supplemented with the order of  
23 the Tribunal, have been of no avail.  
24

25           Article 13C(5) of the Charter provides that  
the following should be admissible in evidence, and



1 I quote: A copy of a document or other secondary  
2 evidence of the contents of the original if the  
3 original is not regularly available." I submit that  
4 this is clearly within that provision, and this is  
5 the only way I can prove the Japanese contention  
6 which the accused SHIGEMITSU was instructed to make  
7 in his interview with Mr. Litvinov on 20 July, 1938,  
8 exhibit 2633. It is not impugning the Russian text.  
9 It is offered to prove another text of equal dignity  
10 and the basis of a claim. I submit it should be  
11 admitted as the basis on which this accused was in-  
12 structed to act when he interviewed Litvinov on the  
13 20th of July, 1938.

14 ACTING PRESIDENT: By a majority, the ob-  
15 jection is overruled and the document admitted.

16 CLERK OF THE COURT: Defense document No.  
17 2706B will receive exhibit No. 3545B, and defense  
18 document No. 2706 will receive exhibit No. 3545C.

19 (Whereupon, documents 2706B and  
20 2706 were marked defense exhibits 3545B  
21 and 3545C, respectively, and admitted in  
22 evidence.)

23 ACTING PRESIDENT: I want to advise the  
24 Members of the Tribunal that if they leave their  
25 copies of these documents on their desks, they will

1 be corrected during the recess. I also want to  
2 suggest to counsel, when they make objections, to  
3 confine their objections to the point involved and  
4 not to make them so expansive. If we argue all ob-  
5 jections at this length, we will never finish the  
6 case.

7 You may proceed.

8 MR. FURNESS: I read commencing on page 2,  
9 commencing at the fourth full sentence.

10 ACTING PRESIDENT: From which document are  
11 you reading now?

12 MR. FURNESS: Exhibit 2706, revised.

13 ACTING PRESIDENT: You mean document.  
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1 MR. FURNESS: I am sorry, 3545-C exhibit,  
2 if your Honor please.

3 (Reading) "Proceeding northwestwards from  
4 the border-mark Tu, crossing a hill, and reaching  
5 the north of a sand hill via the west side of Lake  
6 Hasang, the border-mark No. 1 is established, the  
7 total distance being eight li and one hundred sajen.  
8 Proceeding thence northwards one li and sixty-five  
9 sajen, and turning there northwest for four li one  
10 hundred and thirty-five sajen along sand hills,  
11 Ikangtzu is reached, where the border-mark No. 2 is  
12 established."

13 I now tender in evidence defense document  
14 2079, affidavit of Joseph E. Davies who served as  
15 American Ambassador to the Soviet Union during a part  
16 of the period the accused SHIGEMITSU was ambassador  
17 to that country.

18 I plan to read only portions of this exhibit  
19 and agree that only those portions be considered in  
20 evidence.

21 ACTING PRESIDENT: It will be admitted in  
22 evidence.

23 CLERK OF THE COURT: Defense document 2079  
24 will receive exhibit No. 3546.

25 (Whereupon, the document above

referred to was marked defense exhibit

No. 3546 and received in evidence.)

MR. FURNESS: First page commencing second paragraph:

"I, Joseph E. Davies, was the Ambassador of the United States to the Union of Soviet Socialist Republics from November 16, 1936 to June 9, 1938. During that period I came into contact with Ambassador SHIGEMITSU as a diplomatic colleague, the accredited Ambassador of Japan to the U.S.S.R. I came to know him well.

Skipping the next two sentences.

"In his private conversations with me he spoke of his desire to compose peace in China and to end a war which he personally deplored and which he believed was ill-advised. He also expressed eagerness to prevent that war from spreading into conflict between his country and mine."

Skipping to the next full paragraph.

"On a specific occasion the border incident along the Amur River in June and July of 1937, which had reached a pass where ultimatums had been laid down, I went to see both SHIGEMITSU and Litvinov, informally, to explore the situation, and to urge that the situation be not permitted to develop into war. SHIGEMITSU



received me immediately."

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Skipping the next sentence.

"He assured me that he personally would do what he could to localize the issue and prevent the possibility of war. I believed he was sincere. Shortly thereafter, at a reception given by the Soviet Government, I had opportunity to talk with Foreign Minister Litvinov and Ambassador SHIGEMITSU together. At that time it was clear to me that each, while sustaining the positions of their respective governments, was personally trying to avoid the breakdown of negotiations in the interest of peace. The controversy was adjusted. The settlement was unquestionably due to the decisions of the respective foreign offices. It nevertheless afforded me an opportunity to assess the personal attitude of Ambassador SHIGEMITSU."

1                   Passing now to the activities of the accused  
2 SHIGEMITSU as Ambassador to the United Kingdom and his  
3 efforts to maintain peaceful relations with that country,  
4 I tender in evidence defense document 2869, statement  
5 of the Right Honorable Lord Hankey, former Chancellor of  
6 the Duchy of Lancaster. I have a stipulation with the  
7 prosecution that this statement may be admitted in evi-  
8 dence with the following exceptions: paragraph 8,  
9 first sentence in paragraph 12, and paragraph 18 from  
10 its beginning through sub-paragraph 111, which I shall  
11 not read.

12                ACTING PRESIDENT: Mr. Furness, will you please,  
13 before you make those announcements, wait until the  
14 Members of the Tribunal get their copies so we can mark  
15 them? We do not follow them at all.

16                MR. FURNESS: I am sorry, your Honor. I can't  
17 see very well.

18                ACTING PRESIDENT: Will you announce those over  
19 again so we can mark them?

20                MR. FURNESS: Paragraph 8. The first sentence  
21 of paragraph 12. Paragraph 18 from its beginning through  
22 subparagraph 111.

23                ACTING PRESIDENT: That means all of page 10  
24 is out.

25                MR. FURNESS. Yes, sir. Has it received an



1 exhibit number?

2 ACTING PRESIDENT: It will be admitted in evidence.

3 CLERK OF THE COURT: Defense document 2869 will  
4 receive exhibit No. 3547.

5 (Whereupon, the document above re-  
6 ferred to was marked defense exhibit No.  
7 3547 and received in evidence.)

8 MR. FURNESS: Omitting the formal parts, I read  
9 that exhibit:

10 "This statement is directed primarily to such  
11 knowledge as I possess of the circumstances in which  
12 Mr. SHIGEMITSU, Imperial Japanese Ambassador in London  
13 during the early years of the late war, sought at the  
14 end of March, 1941, to visit Central Europe in order to  
15 meet Mr. MATSUOKA, Foreign Minister of the Japanese  
16 Government during his official visit to Germany and Italy.

17 "2. In order to throw light on the Ambassador's  
18 motives in projecting this visit it is necessary to refer  
19 to certain conversations in which I took part in the  
20 last five months of the previous year. The dates of  
21 the talks are extracted from my official engagement  
22 book, and other particulars mainly from contemporary  
23 notes and correspondence, filled in, where necessary,  
24 from memory.  
25

"September - December, 1940.

1 "3. Early in September, 1940, when I was  
2 Chancellor of the Duchy of Lancaster, with Cabinet rank,  
3 in Mr. Churchill's Government, I received a verbal  
4 invitation from Major-General F.S.G. Piggott, D.S.O.,  
5 former British Military Attache at Tokyo and an old  
6 friend of the Washington Naval Conference, 1921-22, to  
7 meet Mr. SHIGEMITSU at lunch. The invitation was  
8 sponsored by another old friend and colleague, the late  
9 Lord Lloyd of Dolobran, Secretary of State for the  
10 Colonies, who, as Chairman of the British Council, was  
11 concerned at the deterioration of Anglo-Japanese rela-  
12 tions. It was made clear to me from the first that  
13 Viscount Halifax, Secretary of State for Foreign Affairs,  
14 approved this contact and that the conversation would  
15 be informal and non-committal.

16 "4. The first meeting took place in a private  
17 room at the Savoy Hotel on September 11th, 1940:  
18 present Lord Lloyd, Mr. SHIGEMITSU, Viscount KANO,  
19 General Piggott, Mr. George Sale, and myself. I made  
20 no notes of the afterlunch conversation, but to the  
21 best of my recollection it centered round the deteri-  
22 oration in Anglo-Japanese relations, which had started  
23 after the termination of the Anglo-Japanese Alliance  
24 at Washington in 1921-22, and what steps could be taken  
25 to improve them.



1           "5. The second meeting was on September 25th,  
2 again at lunch, in a private room at the Savoy Hotel.  
3 The personnel was the same as before, except that Vis-  
4 count KANO was not present. The conversation was  
5 resumed where it had left off on September 11th, namely,  
6 on a proposal, either initiated or at least warmly  
7 supported by Mr. SHIGEMITSU (who had been working on  
8 these lines during the previous summer) that an official  
9 British Government Mission, headed by a Minister of  
10 Cabinet rank, should proceed to Tokyo, nominally to  
11 attend some forthcoming ceremonial anniversary, but  
12 also to take the opportunity to make the British case  
13 better known, to rally our friends and the British  
14 Colony, and to counter the propaganda of the numerous  
15 Nazi visitors to Japan. This proposal met with general  
16 acceptance and Lord Lloyd undertook to speak to Lord  
17 Halifax.  
18

19           "6. Two days later, on September 27th, the  
20 signature of the Tripartite Pact -- Germany, Italy,  
21 Japan -- was announced and Japan became a member of  
22 the Axis, but not a belligerent. This was a damper on  
23 the idea of an official mission.  
24

25           "7. On November 20th the third and last lunch-  
eon meeting took place, this time in a private room  
at the Ritz Hotel, where Lord Lloyd, Mr. SHIGEMITSU,

1 General Piggott and I were the guests of Commander  
2 McGrath. The idea of a Government Mission had to be  
3 dropped, but Lord Lloyd proposed instead a mission to  
4 be sent by the British Council. On his suggestion  
5 there was general agreement that I ought to lead the  
6 mission, a proposal that was supported enthusiastically  
7 by Mr. SHIGEMITSU. I was prepared to undertake the  
8 mission if officially asked to do so. Lord Lloyd under-  
9 took to report the proposal to the Secretary of State  
10 for Foreign Affairs. But relations with Japan were con-  
11 tinuing to deteriorate, and the moment was never deemed  
12 opportune for the visit."

13           Skipping to 9 --

14           ACTING PRESIDENT: This is a good place to stop.

15           We will recess for fifteen minutes.

16           (Whereupon, at 1045, a recess was  
17 taken until 1100, after which the proceedings  
18 were resumed as follows:)  
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1 MARSHAL OF THE COURT: The International  
2 Military Tribunal for the Far East is now resumed.

3 ACTING PRESIDENT: Mr. Furness.

4 MR. FURNESS: Exhibit 3547, resuming at  
5 paragraph No. 9:

6 "1941.

7 "In February 1941 Lord Lloyd, who had been  
8 the leading spirit in the above episode, died and no  
9 further meetings of the group took place.

10 "10. In March I received messages that  
11 Mr. SHIGEMITSU would very much appreciate a private  
12 and informal conversation with me, and after a talk  
13 with Mr. R. A. Butler, Parliamentary Under-Secretary,  
14 Foreign Office, who was concerned with Japanese af-  
15 fairs, I consented. During the German night-bombing  
16 campaign Mr. SHIGEMITSU had a house at Ewhurst, Surrey,  
17 where General Piggott lived, and our conversation took  
18 place in the General's home. It lasted several hours  
19 and was frank and sincere throughout. General Piggott  
20 was present most of the time and afterwards made some  
21 notes, which I approved two days later, subject to one  
22 amendment.  
23

24 "11. It is unnecessary to describe in detail  
25 this long conversation. We went over all the old  
ground covered by the conversations of 1940, but

focused mainly on recent events, especially Japan's adherence to the Axis and Mr. MATSUOKA's impending visit to Berlin and Rome, which had made a deplorable impression on British public opinion. The Ambassador deeply regretted that his country had joined the Axis, but pointed out that the Japanese Government, cold-shouldered by their former allies, who disapproved their policy in China, and from whom they were now almost cut off by exiguous communications, had tended to drift towards the Germans, who cultivated their friendship persistently. He quoted Mr. MATSUOKA's statement that Japan's policy was one of peace, but he did not underrate my contention that Japan, like Italy, might pass from passive to active membership of the Axis, and that Mr. MATSUOKA, in visiting Berlin, would be exposed to the full force of Hitler's demonstrations of German power, his blandishments and threats. This might easily lead to war between Japan and Britain and perhaps to the intervention of the U. S. A. Although the Ambassador remarked that, in that event, Japan could give us a bad time at first, he was under no illusions as to the ultimate danger to his country.

"12"-- skipping the first sentence. "He agreed that the time had passed for an official British



1 Mission, which might in his view have produced re-  
2 sults in the previous summer, when he had first  
3 mooted it. But he thought that it would still be  
4 useful to send a few influential British citizens  
5 to explain the allied situation to Japan and to  
6 emphasize the importance of recent victories in  
7 North Africa and the Mediterranean, which was not  
8 realized in Japan. In this connection he contrasted  
9 the disparity between the continuous human contacts  
10 between Germany and Japan with the latter's isolation  
11 from Great Britain. He believed that the drift  
12 towards Germany was by no means universally popular  
13 among the Japanese, and gave some evidence to support  
14 it.

15 "13. The Ambassador hinted at the possi-  
16 bility that Mr. MATSUOKA might be induced to come to  
17 London on the return journey but we did not pursue  
18 that idea that day. Next day, however, as General  
19 Piggott reported at once to me, he told the General  
20 that he had decided to urge Prince KONOYE (Prime  
21 Minister) by telegram to try and induce Mr. MATSUOKA  
22 to return to Japan via London in order to counteract  
23 the effects of his visits to Berlin and Rome. He  
24 expressed the hope that the British Ambassador in  
25 Tokyo might be similarly instructed by the Foreign

Office.

"The proposed visit to Central Europe.

"15. On March 28th General Piggott gave me a message that Mr. SHIGEMITSU felt that he must make contact with Mr. MATSUOKA somewhere in Central Europe, preferably at Berne, where they would be free from the influence of Berlin or Rome, and asking for my good offices in obtaining a passage to Lisbon for himself and his military attache.

"16. Inquiry showed that there was tremendous competition for these passages. The matter seemed so urgent and important that on March 31st I appealed direct to the Prime Minister for a priority passage. I supported the appeal by stating that in the conversation on March 22nd the Japanese Ambassador had professed (genuinely I thought) to believe in the certainty of our ultimate victory, but that it was uncertain that his reports were sufficiently read or taken to heart by Mr. MATSUOKA, and that was one reason why he wished to make this contact. After our recent victories in the Mediterranean it would seem especially important to ensure that Mr. MATSUOKA got to know the truth. I suggested that the Ambassador ought to be allowed to take his military attache. The journey to Lisbon



1 and Berne was a formidable undertaking for a man with  
2 a wooden leg. He might find himself amid adverse  
3 surroundings in seeing Mr. MATSUOKA, and it was  
4 advisable to strengthen him with a kindred spirit  
5 with whom he could talk freely and take counsel.

6 "17. The journey, however, did not take  
7 place for reasons which can best be explained by  
8 the following letter from Mr. SHIGEMITSU to myself  
9 dated April 2nd:

10 "COPY.

11 "I certify that this is a true copy.

12 "Hankey, 28 December, 1946.

13 "Japanese Embassy

14 "London, W., 2nd April, 1941.

15 "My dear Lord Hankey:

16 "I was so glad to have the opportunity, when  
17 you telephoned me, to explain why I had to cancel my  
18 proposed trip. On looking into the ways and means of  
19 getting to Switzerland, where I would have liked to  
20 meet my friend, I unexpectedly found that it took  
21 several days to get there from Lisbon. From Lisbon  
22 I would have had to go to Barcelona by plane and from  
23 Barcelona onwards by train, the latter only running  
24 twice a week with all reservations booked up for some  
25 time ahead. I did my best to get this information in

1 good time, but found it physically impossible to  
2 arrange such a complicated journey at the time at  
3 my disposal, in spite of the fact that my friend  
4 having abandoned his idea of going to Vichy was  
5 kind enough to say he would wait several days for  
6 me if I could manage to make the journey. The only  
7 alternative was for me to meet him in Berlin but I  
8 did not like to do this, and so very reluctantly had  
9 to give up the whole idea. It seemed impossible to  
10 arrange in spite of all the kindness and trouble taken  
11 by my British friends to arrange the necessary  
12 facilities. I had hoped to be able to do my bit for  
13 our cause, but I assure you that I shall always con-  
14 tinue my efforts on the same lines.

15 "I am most grateful for all the invaluable  
16 help you were kind enough to give me in the matter  
17 and am only too sorry that I was unable to avail  
18 myself of it. This letter is to explain the circum-  
19 stances which compelled me to cancel the trip and to  
20 express my sincere appreciation of your kindness in  
21 the matter.  
22

23 "Yours very sincerely,

24 "M. SHIGEMITSU.

25 "The Rt. Hon. Lord Hankey, GCB., GCMG., GCVO."

Skipping the next page:



1           "(iv) Throughout the whole series of  
2 conversation, extending over six months, I cannot  
3 find or recollect a word to cast doubt on Mr. SHIGE-  
4 MITSU's bona fides, and I believe that my associates  
5 would confirm that view."

6           I will not read the forwarding letter.

7           ACTING PRESIDENT: General Vasiliev.

8           GENERAL VASILIEV: In connection with the  
9 document 2869, I invite the attention of the Tribunal  
10 to the following exhibits: 1023, 823-A, 773-A, 1275,  
11 which are connected with the statement made by Lord  
12 Hankey.

13           MR. FURNESS: I am familiar, if your Honor  
14 please, with only one of those exhibits and will  
15 reserve my comments for summation, and I should think  
16 they could have been reserved in this case for summa-  
17 tion.  
18

19           I next tender in evidence defense document  
20 1772-A, the contemporary record referred to in Lord  
21 Hankey's statement, the last exhibit read.

22           Since this conversation is largely covered  
23 in Lord Hankey's statement, I shall read only one  
24 paragraph, that is paragraph 3.

25           ACTING PRESIDENT: It will be admitted in  
evidence.

1 CLERK OF THE COURT: Defense document  
2 1772-A will receive exhibit No. 3548.

3 (Whereupon, the document above  
4 referred to was marked defense exhibit  
5 No. 3548 and received in evidence.)

6 MR. FURNESS: The paragraph I plan to read  
7 is paragraph 3 on page 5, if your Honor please.

8 "3. Mr. SHIGEMITSU strongly deprecated  
9 the attitude of doing nothing and awaiting develop-  
10 ments, especially as tremendous efforts were being  
11 made by our enemies to cause these developments to be  
12 unfavorable to us. Surely the policy was to counter-  
13 attack, and not wait passively on events. He felt  
14 that both sides had failed in the past to be active  
15 in maintaining friendship, with the result that the  
16 friendship had been undermined by evilly-disposed  
17 third parties."  
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1 I next offer in evidence defense document  
2 1774, a statement by Lord Sempill, Elected Scots Repre-  
3 sentative Peer, formerly head of the British Aviation  
4 Mission to Japan. As this contains much extraneous  
5 matter, I intend to read only brief portions. I plan  
6 to read beginning at page 3, the first and second sen-  
7 tences of that first full paragraph, and then skipping  
8 to page 4, the first full paragraph and the next para-  
9 graph on pages 4 and 5, up to the last sentence. I  
10 agree further that that is the only part which need be  
11 considered in evidence.

12 ACTING PRESIDENT: It may be admitted in  
13 evidence.

14 CLERK OF THE COURT: Defense document 1774  
15 will receive exhibit No. 3549.

16 (Whereupon, the document above  
17 referred to was marked defense exhibit  
18 No. 3549 and received in evidence.)

19 MR. FURNESS: Commencing with the paragraph  
20 referred to on page 3:

21 "In the summer of 1921 I first had the pleasure  
22 of meeting Mons. Mamoru SHIGEMITSU, at an official  
23 gathering at which a number from the Foreign Office --  
24 in which he was a senior official -- were present. From  
25 that time a long-term friendship sprang up, which was

1 carried on spasmodically after my return to Great  
2 Britain towards the end of 1922, until he was appointed  
3 Ambassador to the Court of St. James's, in London, in  
4 1938."

5         Skipping to the paragraph on page 4 mentioned:

6         "His Excellency's appointment as Ambassador  
7 to Great Britain was very timely in view of the fact  
8 that Anglo-Japanese relations had declined steadily  
9 since I first made his acquaintance in Tokyo in 1921,  
10 at the time of the abrogation of the alliance. The  
11 aggressive tactics of Germany were all too evident at  
12 that time, and caused him profound uneasiness, and I  
13 well remember him telling me a few months after his  
14 arrival in London that unless such tactics were checked  
15 in Europe he could see but one outcome -- world conflict.  
16 Within about a year, war in Europe had broken out. His  
17 Excellency worked with redoubled energy to prevent his  
18 own prognostication becoming true, and lost no opportu-  
19 nity of initiating or joining in any discussion that  
20 might lead to some solution that would at least localize  
21 the conflict that then enveloped Europe.  
22

23         "He invited me to come and see him at any time  
24 that one felt that he might be able to help in prevent-  
25 ing the spread of hostilities over the world. When the  
Foreign Minister in Japan -- Mons. MATSUOKA -- came to



1 Europe in 1941, His Excellency frequently asked me as  
2 to how it might be possible for him to get by air to  
3 some neutral country to meet his Foreign Minister in  
4 order that he might advise him directly against closer  
5 cooperation with the Axis. He was in touch with Mr.  
6 Winston Churchill -- then Prime Minister of Great  
7 Britain -- who had emphasized a number of points that  
8 he would like to have put by His Excellency to his  
9 Foreign Minister. I remember meeting His Excellency at  
10 this time, and his telling me with obvious enthusiasm  
11 and elation that he had received most important and  
12 effective material from the Prime Minister for this  
13 purpose. At this time everything in Europe was dis-  
14 rupted by the war, and this meeting, so full of pos-  
15 sibilities, could not take place."  
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1 The Tribunal will recall exhibit 1062, a  
2 message from Prime Minister Winston Churchill to Foreign  
3 Minister MATSUOKA of Japan, delivered to the latter  
4 on April 12, 1941. It is evident from the note on its  
5 face, which note is part of the exhibit, that this was  
6 material which Ambassador SHIGEMITSU intended to deliver  
7 to MATSUOKA on his trip. It was a set of questions  
8 showing the dangers of Japan's siding with the Axis  
9 Powers, and Mr. Churchill ended it with the statement:

10 "From the answers to these questions may spring  
11 the avoidance by Japan of a serious catastrophe and a  
12 marked improvement in the relations between Japan and  
13 Great Britain, the Great Sea Power of the West."

14 To show that the accused SHIGEMITSU was regarded  
15 as a reliable representative to make such delivery,  
16 and the reasons for holding him in this regard, the  
17 statement of R. A. Butler, a former member of the  
18 British Cabinet, then Under Secretary of State for  
19 Foreign Affairs, with whom Mr. SHIGEMITSU had many offi-  
20 cial conversations, some of which are recorded in exhi-  
21 bits before this Tribunal, defense document 2872 is  
22 tendered in evidence.

23 ACTING PRESIDENT: General Vasiliev.

24 GENERAL VASILIEV: If your Honor please, I  
25 object to the introduction of this document on the



following grounds:

1 First, the prosecution had no agreement with  
2 the defense that that witness would not be called for  
3 cross-examination. At present the prosecution do  
4 not waive their right of cross-examination. With regard  
5 to a number of people, we agreed not to cross-examine  
6 them, but in this particular case no agreement of that  
7 kind was ever given and will not be given.

8 My second ground for objection is that in  
9 this document we have only a characterization of SHI-  
10 GEMITSU, given in a very general way. In order to  
11 make my objection brief, I am not going to repeat the  
12 statements which are contained in that document. I  
13 will only mention that in the following statements  
14 SHIGEMITSU is characterized as a man of character and  
15 a far-sighted man. Neither of these statements can be  
16 verified. It is only an expression of the personal  
17 opinion of the author and, therefore, inadmissible.

18 MR. FURNESS: If the Court please, I do not  
19 wish to use up much time on this objection. If the  
20 prosecution wishes to cross-examine this witness, they  
21 can apply for it. But certainly the prosecution, which  
22 has introduced, I think, 546 affidavits, many from  
23 people from afar off, cannot say that any affidavit is  
24 not admissible before this Tribunal. The admission of  
25

1 affidavits is directly provided for in the Charter,  
2 and the admission of statements, signed statements,  
3 also under the Charter, and I submit that on past  
4 precedent the witness does not have to be produced for  
5 cross-examination unless the other side makes such  
6 application. Obviously the defense itself cannot bring  
7 witnesses here whereas the prosecution can.

8 This objection as to the characterization, it  
9 outlines conversations. I do not intend to read any-  
10 thing except the first paragraph, the last sentence  
11 in the second paragraph, and the final paragraph. I  
12 admit that the other part is character evidence and  
13 under the ruling is not admissible.

14 GENERAL VASILIEV: In this case I withdraw  
15 my objection if the characterization is going to be  
16 stricken out.

17 MR. FURNESS: Thank you very much, sir.

18 ACTING PRESIDENT: It may be admitted under  
19 those conditions.

20 CLERK OF THE COURT: Defense document 2872  
21 will receive exhibit No. 3550.

22 (Whereupon, the document above  
23 referred to was marked defense exhibit  
24 No. 3550 and received in evidence.)

25 MR. FURNESS: (Reading) "As Under Secretary



1 for Foreign Affairs from February '38 to July '41 I  
2 had frequent opportunities of exchanging views with  
3 Mr. SHIGEMITSU, then Japanese Ambassador in London."

4 Skipping the next three sentences:

5 "He frequently used language agreeing with  
6 me that it would not be in the interests of his country  
7 to become involved in a struggle with Great Britain,  
8 and he appeared to foresee the peril of war with Great  
9 Britain and America in the Pacific.

10 "I have been shown exhibit No. 1062 which I  
11 recognize as having been drafted by Mr. Churchill for  
12 the purpose of handing to Mr. SHIGEMITSU whom he  
13 regarded as a reliable representative in order that it  
14 might be put directly before the Japanese Foreign  
15 Secretary during his trip to Europe.

16 "R. A. Butler, 6/1/47."

17 To further show the efforts of the accused to  
18 maintain friendly relations with Great Britain and  
19 the United States, defense document No. 1777, revised,  
20 the affidavit of Joseph P. Kennedy, his colleague in  
21 London as American Ambassador to Great Britain, is  
22 tendered in evidence.

23 I have agreed with the prosecution as to parts  
24 which shall be stricken out. They are quite numerous,  
25 and if the Tribunal could follow my reading as I read,

1 I think it would take far less time than my enumerating  
2 them.

3 ACTING PRESIDENT: It may be admitted.

4 CLERK OF THE COURT: Defense document 1777,  
5 revised, will receive exhibit 3551.

6 (Whereupon, the document above  
7 referred to was marked defense exhibit  
8 No. 3551 and received in evidence.)  
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1 MR. FURNESS: I agree that the parts not  
2 read will not be considered in evidence.

3 Omitting the formal parts:

4 "On this day personally appeared before me,  
5 an officer duly authorized to administer oaths in the  
6 State of Massachusetts, Joseph P. Kennedy, who being by  
7 me first duly sworn, deposes and says:

8 "That during 1939 and 1940 he was Ambassador  
9 from the United States of America to the Court of St.  
10 James and was in residence at the American embassy in  
11 London during this period.

12 "That during the above-mentioned period, one  
13 Mamoru SHIGEMITSU was the Japanese Ambassador to the  
14 Court of St. James and was likewise in residence in  
15 London during this period. That during this period of  
16 time the affiant had a number of conferences with  
17 Mamoru SHIGEMITSU in his official capacity and also met  
18 him on several occasions at social events; the affiant  
19 on all these occasions discussed general world conditions  
20 with Mamoru SHIGEMITSU and heard him discuss such matters  
21 with others in the affiant's presence. That said Mamoru  
22 SHIGEMITSU in such conversations expressed --" Strike  
23 out the next two words. "-- a desire of avoiding war  
24 between Japan and the Allied Powers and, in fact,  
25 expressed generally opposition to war and favoring a

1 policy of peace. That said Mamoru SHIGEMITSU in such  
2 conversations expressed his intense desire to have  
3 his country cooperate with Great Britain and the  
4 United States in an effort to avoid war, and he did  
5 not favor Japanese collaboration with the Axis Powers.  
6 He also expressed a --" Strike out the next word.  
7 "-- desire for a peaceful settlement of the China  
8 Incident and general desire for peaceful settlements  
9 of disputes and against war. The affiant from these  
10 many conversations and official and social contacts  
11 with Mamoru SHIGEMITSU came to know him well --" Strike  
12 out the next lines until the next paragraph.

13 "Examples of such conversations are as  
14 follows:

15 "On March 3, 1939, Mamoru SHIGEMITSU called  
16 on the affiant and told him that the Japanese people  
17 were very appreciative of President Roosevelt's order  
18 to send the body of SAITO, the Japanese Ambassador to  
19 Washington, back to Japan on an American cruiser.  
20 SHIGEMITSU told the affiant that this action of the  
21 President might open the way to solve a lot of Far  
22 Eastern problems. He said that he and the then Prime  
23 Minister were hopeful that some sort of trade agreement  
24 could be worked out with the United States, no matter  
25 how small, because it might be the entering wedge which



1 would help in solving the Chinese problem and  
2 restoring peaceful relations once more between the  
3 United States and Japan."

4 Strike out the next paragraph.

5 "On October 15, 1940, the affiant went to see  
6 Mamoru SHIGEMITSU at the Japanese Embassy. He said  
7 that he was very much upset about the course his  
8 country was taking in tying up with Germany --" Strike  
9 out the remainder of the sentence.

10 "He said that he had always belonged to the  
11 school that believed that their tendency should be to  
12 work with the United States, not against them." Strike  
13 the next sentence.

14 "On October 19, 1940, the affiant had a  
15 conversation with William Hillman, one of the closest  
16 friends of the affiant, at that time head of the  
17 International News Service in Europe. Hillman told  
18 the affiant of a conversation which he had had with  
19 Mamoru SHIGEMITSU on the day after the pact was signed.  
20 Hillman said that he found the Japanese Ambassador  
21 decidedly annoyed and depressed by the conclusion of  
22 this pact of which he said he had not been given more  
23 than half a day's notice. SHIGEMITUS, Hillman said,  
24 told him it was one of the worst blows which he had  
25 suffered in his career as it threatened to kill the

1 object of his mission in London which was Anglo-  
2 Japanese reconciliation. SHIGEMITSU told Hillman  
3 that he had been tempted to resign on the first impulse,  
4 but then on second thought decided to remain in  
5 London as long as it was possible in order to mitigate  
6 the effects of the conclusion of the pact and by  
7 diplomacy to prevent its being implemented. Hillman  
8 said that he told SHIGEMITSU that he felt very  
9 doubtful about this and that he was sure that the  
10 British Government would find it difficult to see his  
11 standpoint. Hillman told SHIGEMITSU that he was of  
12 the opinion that this pact had been negotiated under  
13 the pressure of the militarists."

14 To show efforts along lines other than  
15 diplomacy, I offer in evidence defense document 1983,  
16 the affidavit of H. A. Gwynne for 26 years Editor of  
17 the Morning Post, one of the great London newspapers.  
18 I do not plan to read the last paragraph.

19 ACTING PRESIDENT: General Vasiliev.

20 GENERAL VASILIEV: The prosecution never gave  
21 their agreement that the statement by the editor of the  
22 Morning Post should be presented without producing the  
23 editor himself for cross-examination. In this particular  
24 case, we don't see any reason why the editor of the  
25 paper shouldn't have been called here because there are



1 no circumstances justifying his non-appearance here  
2 if he could be useful as far as the factual aspect of  
3 the matter is concerned.

4 As far as the characterizations of SHIGEMITSU  
5 are concerned they are of no interest to the Tribunal  
6 and have no value for the Tribunal.

7 ACTING PRESIDENT: Mr. Furness.

8 MR. FURNESS: If the Court please, I have an  
9 argument prepared on witnesses being called for  
10 simultaneous translation.

11 Language Section, defense document 2684.

12 GENERAL VASILIEV: I want to make my objections  
13 as brief as possible, but it seems that my learned  
14 colleague is going to make his objections as long as  
15 possible, so we are not on an equal footing.

16 ACTING PRESIDENT: We do not care to hear any  
17 more, Mr. Furness, on that argument.

18 MR. FURNESS: Well, do you care to hear argument  
19 on the --  
20

21 ACTING PRESIDENT: No. By a majority the objection  
22 is overruled and the document admitted.

23 CLERK OF THE COURT: Defense document 1983 will  
24 receive exhibit No. 3552.

25 (Whereupon, the document above re-  
ferred to was marked defense exhibit No. 3552  
and received in evidence.)

1 MR. FURNESS: I read exhibit 3552, omitting  
2 the formal parts:

3 "I was Editor of the Morning Post from 1911  
4 to 1937 and my relations with the Japanese Embassy  
5 have always been cordial, dating as they do from  
6 the first war when Japan was fighting on the side  
7 of the allies. The incidents at Tientsin and the  
8 invasion of China were the subjects of conversation  
9 with Mr. YOSHIDA, recently Premier of Japan, and  
10 Mr. SHIGEMITSU, who succeeded him as Ambassador to  
11 London. Somewhat to my surprise, both these  
12 gentlemen expressed strong opposition to the China  
13 Invasion. They clearly expressed disapproval of  
14 the venture and equally clearly expressed their  
15 strong opposition to the War Party in Japan.  
16 Gradually, Mr. SHIGEMITSU gave me his confidence  
17 and suggested that I might publish occasional lead-  
18 ing articles pointing out that the War Party was  
19 losing for Japan friendly feeling which dated from  
20 1914-18 War. He said that from his experience in  
21 Moscow and his contacts with Japanese diplomatists  
22 in Europe, he was convinced that Hitler at the first  
23 serious check sustained by the German Army would be  
24 swept away by the General Staff. He then went on  
25 to express his fears lest the War Party might lose



1 their heads and allow themselves to be infected with  
2 the world-domination germ which had already contam-  
3 inated Germany. He expressed strong opposition to  
4 widening the area of hostilities and indicated that  
5 he consistently opposed the War Party in Tokyo and  
6 was doing all in his power to prevent them from  
7 further aggression.

8 "It is well to bear in mind that these con-  
9 versations covered a period of two years and I think  
10 that I might truly say that he gave me his full con-  
11 fidence as far as it was consistent with his duties  
12 as Ambassador. In his talks with me, he indicated  
13 that he attached more weight to the leading articles  
14 which I occasionally published than I did. He said  
15 that he believed they would appeal to the moderate  
16 men in Tokyo and enable them to put up a fight against  
17 the war mongers. I know that extracts from these  
18 articles were cabled to Tokyo and appeared in some  
19 of the Japanese press, but I confess that I saw little  
20 sign of a favourable reaction. As I have said, Mr.  
21 SHIGEMITSU indicated in his conversations with me  
22 that he was firmly convinced that Hitler was not  
23 going to last. His conversations indicated that he  
24 was very well informed about the German attempts to  
25 induce Japan to join in the war on her side. To this

1 he expressed consistent opposition and opposition  
2 to every suggestion of an extension of the war.  
3 In all my conversations, I never once found him  
4 wavering from this opinion, nor did I, throughout  
5 these conversations extending over a period of two  
6 years, recollect any statements which would cause  
7 me to doubt his good faith."

8 I tender for identification the book,  
9 "Secret Session Speeches Delivered to the House of  
10 Commons, 1940-1943.

11 CLERK OF THE COURT: The book entitled,  
12 "Secret Session Speeches Delivered by the Right  
13 Honorable Winston Churchill," will receive exhibit  
14 No. 3553 for identification only.

15 (Whereupon, the document above  
16 referred to was marked defense exhibit  
17 No. 3553 for identification.)

18 MR. FURNESS: I now tender in evidence --

19 ACTING PRESIDENT: Do you have a defense  
20 document number?

21 MR. FURNESS: It is a book, if your Honor  
22 please, just tendered for identification. I intend  
23 to tender a defense document, which is an excerpt  
24 from it.

25 I now tender in evidence defense document



1 1795-A, an excerpt from a speech by Prime Minister  
2 Churchill, delivered on June 25, 1941, during the  
3 darkest days of the war. I intend to only read the  
4 portion of this exhibit beginning at the third  
5 sentence.

6 ACTING PRESIDENT: General Vasiliev.

7 GENERAL VASILIEV: If the Court please, I  
8 object to the introduction of this document. It  
9 seems to me that in this Tribunal the practice has  
10 been adopted of refraining from introducing various  
11 speeches by the heads of governments, maybe with the  
12 exception of rare cases when such speeches deal with  
13 important facts and the attitude of a state.

14 In this case, an attempt is being made to  
15 use Mr. Churchill's address for the purpose of giving  
16 character evidence with regard to the accused  
17 SHIGEMITSU. What Mr. Churchill said about SHIGEMITSU  
18 is of a very general nature, and, in my submission,  
19 it is customary to make such statements when speak-  
20 ing of representatives of other nations, and it is the  
21 private opinion of Mr. Churchill. These words have  
22 no other meaning.

23 MR. FURNESS: If the Tribunal please, this  
24 records a conversation by the Japanese Ambassador,  
25 the accused SHIGEMITSU, on his leaving London, with

1 the head of the British Government. It was not a  
2 public statement. It was a statement in a secret  
3 session, not published until long after it was  
4 delivered.

5 I submit that the phrases in the second  
6 line of the second paragraph are statements of  
7 attitude, not statements of character. The first  
8 part, beginning with the third sentence, explains  
9 only the occasion of the speech, what he was talk-  
10 ing about and - -

11 ACTING PRESIDENT: We do not want these  
12 long arguments on the admission of exhibits.

13 By a majority, the objection is sustained  
14 and the document rejected.

15 MR. FURNESS: The accused left London in  
16 June, 1941, and arrived in Tokyo in July, 1941. I  
17 tender in evidence defense document 2885, the affi-  
18 davit of Admiral TOYODA, who was then Foreign  
19 Minister of Japan. The prosecution has advised me  
20 that they do not wish to cross-examine this witness.

21 ACTING PRESIDENT: The document may be  
22 admitted.

23 CLERK OF THE COURT: Defense document 2885  
24 will receive exhibit No. 3554.

25 (Whereupon, the document above



1 referred to was marked defense exhibit  
2 No. 3554 and received in evidence.)

3 MR. FURNESS: I will read that exhibit,  
4 omitting the formal parts:

5 "I, TOYODA, Teijiro, after having been  
6 duly sworn according to the Japanese formula, make  
7 the following statement of my own free will:

8 "I am 62 years of age, and reside at No.  
9 473, 1-chome, Shimo-ochiai, Yodobashi Ward, Tokyo,  
10 Japan.

11 "I was Foreign Minister in the Third  
12 KONOYE Cabinet, from July 18, 1941, to October 18,  
13 1941. Soon after my appointment as Foreign Minister,  
14 Mr. SHIGEMITSU arrived in Japan, having been recalled  
15 from London, where he had been Ambassador. In his  
16 report to me which was oral about the European situ-  
17 ation, he particularly emphasized the fact that  
18 Great Britain would never be defeated in the war with  
19 Germany, and he stated his opinion that Japan should  
20 in no case be involved in any war, and that the  
21 negotiations then under way with the United States  
22 should by all means be brought to a successful end."

23 Pursuant to Court Order Papers 877 and 1311,  
24 certain interrogations were put by cable to Sir  
25 Robert Craigie, formerly British Ambassador to

1 Japan, who is now in London. Sir Robert's answers  
2 were returned by cable from Mr. Bevin, Foreign  
3 Secretary, and defense document 2877 prepared.  
4 Last Saturday, the official document on Foreign  
5 Office stationery, duly signed and sworn to by Sir  
6 Robert, has been received and is now in the hands  
7 of the Clerk of the Court. I wish to tender it in  
8 evidence, but with the Court's permission to use  
9 as copies the papers now being handed to the  
10 members of the Tribunal, which were prepared on  
11 the basis of the cable reply. The questions and  
12 answers are exactly the same, and this will save  
13 time and paper.

14 ACTING PRESIDENT: General Vasiliev.

15 GENERAL VASILIEV: I do not object to this  
16 document in its entirety, but I request of the  
17 Tribunal that certain answers should be deleted:

18 1. The answer to question 4, as containing  
19 the personal opinion of the witness, stated in a  
20 very general form;

21 2. The answer to question 3, because it  
22 will have no sense if question 4 is deleted;

23 3. The answer to question 10, because the  
24 witness admits that he does not remember what  
25 SHIGEMITSU said and adds that the talk was informal.



1 The last portion of the answer contains only the  
2 witness' personal opinion of SHIGEMITSU;

3 4. The answers to questions 12, 13, and  
4 14, because the witness states that he does not  
5 remember the matter he was asked about and is giving  
6 his personal opinion of SHIGEMITSU's views, not  
7 stating what he bases his opinion on;

8 5. The answer to question 15, because it  
9 is based only on hearsay;

10 6. The answer to question 16, because it  
11 contains only the opinion of the witness.

12 MR. FURNESS: If the Court please, first,  
13 I'd like to say that I agree with the prosecution  
14 that the answers to questions 12, 13, and 14 may be  
15 omitted. I agreed with them some time ago. These  
16 other objections came to me this morning.

17 As to question 4, I submit it is not  
18 personal opinion. It is information which came to  
19 the Ambassador in his official capacity, and it is  
20 admissible under any rule of law.

21 I agree that if question 4 is excluded,  
22 question 3 also falls.

23 As to question 10, I submit that it is the  
24 record of Sir Robert's recollection of conversations  
25 with Mr. SHIGEMITSU. If any is to be omitted, I

1 agree that the last two sentences of his answer to  
2 question 10 may be omitted.

3 The answer to question No. 15 was based on  
4 hearsay, but certainly that is not an objection  
5 which is valid before this Tribunal.

6 As to question 16, it states the reason  
7 why the proposed plan did not go through. It is a  
8 fact, and not an opinion.

9 ACTING PRESIDENT: By a majority, the  
10 objection is sustained.

11 MR. FURNESS: Then, the document may be  
12 admitted into evidence with the exception of those  
13 parts objected to?

14 ACTING PRESIDENT: Yes.

15 CLERK OF THE COURT: Defense document 2877  
16 will receive exhibit No. 3555.

17 (Whereupon, the document above  
18 referred to was marked defense exhibit  
19 No. 3555 and received in evidence.)

20 ACTING PRESIDENT: We will adjourn until  
21 one-thirty.

22 (Whereupon, at 1200, a recess was  
23 taken.)  
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October 1938 until his return to Tokyo on leave?



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## AFTERNOON SESSION

1 The Tribunal met, pursuant to recess,  
2  
3 at 1330.  
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5 MARSHAL OF THE COURT: The International  
6 Military Tribunal for the Far East is now resumed.

7 ACTING PRESIDENT: Mr. Furness.

8 MR. FURNESS: If the Court please, I will  
9 now read the portions of exhibit 3555 which were  
10 admitted.

11 "QUESTION NO. 1: What is your name and  
12 present office?

13 "ANSWER: Sir Robert Leslie Craigie,  
14 United Kingdom representative to the United Nations  
15 War Crimes Commission.

16 "QUESTION NO. 2: During what period were  
17 you His Britannic Majesty's Ambassador to Japan?

18 "ANSWER: From September 3rd 1937 until the  
19 outbreak of war.

20 "QUESTION NO. 3: Did you, from information  
21 received by you in your official capacity as such  
22 ambassador, have an opportunity to know the activi-  
23 ties and policies of Mamoru SHIGEMITSU, the Ambassa-  
24 dor from Japan to the Court of St. James from  
25 October 1938 until his return to Tokyo on leave?

1 "ANSWER: Yes.

2 "QUESTION NO. 5: Did Mr. SHIGEMITSU return  
3 from London on leave, arriving in Tokyo on or about  
4 July 20, 1941, and remain in Tokyo until the outbreak  
5 of war?

6 "ANSWER: Yes.

7 "QUESTION NO. 6: Did you meet Mr. SHIGEMITSU  
8 after his return to Tokyo, and if so, approximately  
9 how many meetings did you have with him?

10 "ANSWER: Yes, six or seven times.

11 "QUESTION No. 7: Were these meetings of an  
12 official or social nature, or both?

13 "ANSWER: Both.

14 "QUESTION No. 8: Did he tell you the pur-  
15 pose for which he returned, and if so, what did he  
16 say was his purpose?

17 "ANSWER: Yes, he said he had returned on  
18 leave because he believed he could at that moment do  
19 more in Tokyo than in London to arrest the deteriora-  
20 tion in relations with the Western Powers.

21 "QUESTION NO. 9: Did you discuss with him  
22 the improvement of Anglo-Japanese relations, the  
23 peaceful settlement of differences between the two  
24 countries and the avoidance of war, or any of these  
25 subjects?



1 "ANSWER: Yes, we discussed all these subjects.

2 "QUESTION No. 11: Did you discuss with Mr.  
3 SHIGEMITSU, Admiral TOYODA, the then Foreign Minister,  
4 or other persons, any work Mr. SHIGEMITSU was doing  
5 or conferences he was having with Admiral TOYODA  
6 or other persons on these matters, and if so, what did  
7 Mr. SHIGEMITSU, Admiral TOYODA, or such other persons  
8 say?

9 "ANSWER: Yes, I can quote two instances.

10 "(A) At Mr. SHIGEMITSU's suggestion a meet-  
11 ing took place at the Foreign Ministry between Admiral  
12 TOYODA, Mr. SHIGEMITSU, and myself at which the criti-  
13 cal stage reached in the "ashington negotiations was  
14 explained to me and I was asked to urge the British  
15 Government to play their part in averting a breakdown.

16 "(B) At Mr. SHIGEMITSU's request Mr. Voshida  
17 SHIGERU came to Hayama about October 1941 to enquire  
18 whether I could make any personal suggestions for  
19 ending the deadlock in regard to Indo-China. I was,  
20 however, precluded by my instructions from taking  
21 any official part in discussing the matters under ne-  
22 gotiation in "ashington."  
23

24 The rest, I think, was not admitted.

25 I next tender in evidence defense document  
2871, an affidavit by Joseph C. Grew, formerly Ameri-

1 can Ambassador to Japan, to which is attached an  
2 original letter to him, dated 30 December, 1941,  
3 from the accused SHIGEMITSU.

4 I wish to remind the Tribunal that an affi-  
5 davit was tendered in HIRANUMA's defense and rejected  
6 by the Tribunal because, in so far as it referred to  
7 HIRANUMA, it was solely character evidence. At  
8 that time I expressly reserved the right to submit  
9 it in presenting the defense of the defendant SHIGE-  
10 MITSU, saying that part of it relating to SHIGEMITSU  
11 dealt with a question of fact, the receipt of a letter  
12 and its contents (transcript page 29,240). The Presi-  
13 dent stated that this had not escaped his attention  
14 and that I might tender it if I saw fit. I have ob-  
15 tained another affidavit dealing only with the letter,  
16 and this is the document tendered.

17 ACTING PRESIDENT: General Vasiliev.

18 GENERAL VASILIEV: If the Court please, I  
19 object to the introduction of this document, or rather,  
20 to the letter that is attached to the affidavit.

21 The letter deals with personal relations  
22 between SHIGEMITSU and Mr. Grew and should have re-  
23 mained a matter between them. Each of them had his  
24 own understanding of the purport and aims of the  
25 negotiations carried on between the USA and Japan



1 and of the nature of war, but it in no way helps to  
2 find out the actual attitude of SHIGEMITSU. It was  
3 not prior to but after the Pearl Harbor attack that  
4 SHIGEMITSU wrote this letter.

5 MR. FURNESS: If the Court please, certain-  
6 ly the fact that it is a personal letter does not  
7 exclude it. Certainly if SHIGEMITSU in the letter,  
8 personal or otherwise, stated he wanted the war,  
9 favored it, it would be admissible against him.

10 The letter deplores the coming of war and  
11 expresses the wish that it may soon be ended, and is  
12 offered in disproof of conspiracy -- of waging a war  
13 of conspiracy. I submit that it is clearly ad-  
14 missibl

15 ACTING PRESIDENT: By a majority the objec-  
16 tion is sustained.

17 MR. FURNESS: I next offer in evidence  
18 defense document 1811, an official dispatch dated 2  
19 September, 1944, from OKAMOTO, Japanese Minister to  
20 Sweden, to SHIGEMITSU, then Foreign Minister.

21 I submit it is relevant to matters which  
22 later took place in French Indo-China while SHIGEMITSU  
23 was still Foreign Minister, since it indicates that  
24 France was at war with Japan. I only offer in evi-  
25 dence the fourth paragraph. The remainder is irrele-

1 vant.

2 ACTING PRESIDENT: It may be admitted.

3 CLERK OF THE COURT: Defense document 1811  
4 will receive exhibit No. 3556.

5 (Whereupon, the document above  
6 referred to was marked defense exhibit 3556  
7 and received in evidence.)

8 MR. FURNESS: I read the fourth paragraph  
9 of that exhibit:

10 "4. Radio Paris announced on the 29th"--  
11 of August, from the context -- "the names of the mem-  
12 bers of the French Provisional Government, including  
13 De Gaulle as Prime Minister, Catroux as Minister with-  
14 out Portfolio, and Massigli as Foreign Minister.  
15 They are all Cabinet members of the Algiers Government.  
16 The French Provisional Government made the following  
17 announcement through the radio:

18 "France has been in a state of war with Japan  
19 since December 8, 1941, and is actually fighting with  
20 her on the sea. France, in collaboration with the  
21 Allies, will keep on fighting with all her might un-  
22 til not only French territories are liberated, but  
23 also the enemies of France in Asia and in Europe are  
24 repulsed."  
25

To show the efforts of the accused SHIGEMITSU



1 to maintain peaceful relations with Russia, his efforts  
2 to effect a general peace, and to disprove conspiracy  
3 to wage war against the Soviet Union, defense docu-  
4 ment 2051 is offered in evidence. Annex A of this  
5 document is a copy of the document received in evi-  
6 dence as exhibit 2745 on identification of the wit-  
7 ness Stahmer, transcript page 24,485, and is there-  
8 fore not included in the copies of this document.

9 I shall read only portions of this document.

10 ACTING PRESIDENT: It may be admitted.

11 CLERK OF THE COURT: Defense document 2051  
12 will receive exhibit No. 3557.

13 (Whereupon, the document above  
14 referred to was marked defense exhibit 3557  
15 and received in evidence.)

16 MR. FURNESS: Starting with paragraph 2 on  
17 page 2:

18 "2. Soviet Question.

19 "After having made his report on the Soviet-  
20 German peace problem, the Foreign Minister distribu-  
21 ted a tentative draft prepared by officials in  
22 charge (Annex B), and opened a free discussion on  
23 the subject. As the question, however, was of a  
24 very serious nature, the necessity of keeping it  
25 secret was specifically emphasized. In particular,

1 the questions to be taken up for the sake of an  
2 adjustment of Soviet-Japanese relations, such as the  
3 cession of rights and interests in Manchuria, and the  
4 cession of Southern Saghalien, and other matters of  
5 importance were so complicated and grave that the  
6 Conference after all arrived at no conclusion. It  
7 was, however, unanimously agreed that any treatment  
8 of such questions as routine business should be  
9 strictly avoided. Finally, it was agreed that the  
10 Foreign Minister be requested to make a basic draft,  
11 as the policy on these matters should be decided upon  
12 in accordance with the progress of Soviet-Japanese  
13 negotiations, hoped shortly to be commenced in Moscow."

14 "ANNEX B

15 "DIPLOMATIC MEASURES TO BE TAKEN VIS-A-VIS  
16 THE SOVIET UNION (DRAFT) (September 12, 1944)

17 "1. General Line.

18 "In view of the present situation, Japan  
19 will immediately initiate an active diplomatic demarche  
20 towards the Soviet Union, with the object of securing  
21 (1) Maintenance of neutrality and improvement of  
22 diplomatic relations between Japan and the Soviet  
23 Union, (2) Realization, as far as possible, of peace  
24 between Germany and the Soviet Union, and further  
25 (3) Improvement of Japan's situation, through the



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1 assistance of the Soviet Union, in case Germany  
2 should fall out of the present war. For this pur-  
3 pose, a special envoy shall be dispatched to the  
4 Soviet Union to conduct negotiations.  
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"II Outline.

"1. Object of Negotiations.

"To sound out the Soviet Union fully as to her intentions vis-a-vis Japan, to inform her thoroughly of our desire to cooperate, to endeavor to improve Soviet-Japanese relations, and to achieve, as far as possible, the following aims:

"(1) The continuation or implementation of the Neutrality Pact. For this purpose, the following agreements shall be concluded, in lieu of the Neutrality Pact, or parallel therewith:

"A. A confirmation of the obligations imposed by the Neutrality Pact, or an agreement on a prolongation of same.

"B. A non-aggression pact.

"C. A treaty of good neighborliness and friendship.

"D. An agreement for a peaceful solution of conflicts (abolition of the use of force).

"E. An agreement for economic cooperation.

"(2) Use of good offices for peace between Germany and the Soviet Union.

"(3) Mediation for peace between Japan and the Chiang regime, if such should prove to be necessary.

"(4) To sound out the Soviet Union as to her



1 attitude in case of Germany's collapse or her con-  
2 clusion of a separate peace, and to endeavor to secure  
3 and enhance her favorable attitude towards Japan.

4 "2. Negotiations to be conducted simultaneous-  
5 ly:

6 "Negotiations shall be conducted between Japan  
7 and the Soviet Union on the following matters, simul-  
8 taneously with the negotiations for the agreements men-  
9 tioned in the preceding paragraph, irrespective of  
10 whether they bear fruit or not. Endeavors should be made  
11 to reach, as far as possible, an understanding.

12 "(1) Demarcation of the borders between  
13 Japan, Manchukuo, and Inner Mongolia on the one side,  
14 and the Soviet Union and Outer Mongolia on the other.

15 "(2) Establishment of demilitarized zones along  
16 such borders (or, mutual reduction of armaments).

17 "(3) Means of solution of conflicts along  
18 such borders.

19 "(4) Exchange of commodities between Japan-  
20 Manchukuo and the Soviet Union.

21 "Solution shall also be for various other  
22 matters pending between Japan and the Soviet Union.

23 "3. Measures to be taken against Soviet  
24 Demands, as to the attitude of the Soviet Union towards  
25 our initiation of negotiations, especially any counter-

1 demands that she may possibly present, these cannot be  
2 easily foreseen. The following are the demands which  
3 are in general anticipated:

4       "(1) Admission of passage across the Tsugaru  
5 Strait.

6       "(2) Abrogation or revision of the Soviet-  
7 Japanese Basic Treaty.

8       "(3) Surrendering of fishery rights.

9       "(4) Cession of the North Manchurian Railway.

10       "(5) Acquiescence in the peaceful activities  
11 of the Soviet Union in Manchuria, Inner Mongolia, China,  
12 and other parts of Greater East Asia.

13       "(6) Recognition of a sphere of interests for  
14 the Soviet Union in Manchuria.

15       "(7) Recognition of a sphere of interest for  
16 the Soviet Union in Inner Mongolia.

17       "(8) Abrogation of the Anti-Comintern Pact.

18       "(9) Abrogation of the Tripartite Pact and the  
19 Tripartite Agreement.

20       "(10) Cession of Southern Sakhalien.

21       "(11) Cession of the Northern Kuriles.

22       "In this connection, in view of the rapid  
23 development of the world situation, and the necessity  
24 of dealing with the diplomacy of the Soviet Union, which  
25 is active and beyond conjecture, the envoy shall in



1 advance be accorded wide discretionary authority, so that  
2 he may quickly accede to, or refuse, Soviet demands,  
3 taking into consideration the situation at the time of  
4 the negotiations and the readiness of the Soviet side to  
5 comply with our desire. (See Annexed Plan as to the  
6 limits of the concession in our minds).

7 "If Soviet demands go beyond the scope men-  
8 tioned in the plan, the envoy shall as a rule use his  
9 discretion, except that he shall ask for instructions  
10 from home, should important be on the tapis.

11 "4. As to Germany, to endeavor to bring her  
12 to understand our policy towards the Soviet Union, by  
13 explaining the necessity of cooperation between Japan,  
14 Germany, and the Soviet Union in the interest of the  
15 security of world peace.

16 "ANNEXED PLAN

17 "TENTATIVE PLAN ON THE LIMITS OF JAPAN'S  
18 CONCESSION TO THE SOVIET UNION IN CONNECTION WITH THE  
19 DEMARCHE TO BE MADE TO THE SOVIET UNION.

20 "1. In case some sort of understanding is  
21 reached, through which the Soviet Union maintains her  
22 attitude of neutrality, and further contributes to the  
23 amelioration of the Soviet-Japanese relations;

24 "Japan has no objection to acceding to all  
25 Soviet demands, except to the cession of the North

1 Manchurian Railway, recognition of the Soviet sphere of  
2 interest in Manchuria and Mongolia, abrogation of the  
3 Tripartite Pact and the Tripartite Agreement, as well  
4 as the cession of Southern Saghalien and the Northern  
5 Kuriles.

6 "2. In case Soviet-German peace is realized;

7 "No objection to acceding to all Soviet demands,  
8 except the cession of Southern Saghalien and the Northern  
9 Kuriles.

10 "3. In case peace between Japan and the  
11 Chiang regime is realized through mediation by the  
12 Soviet Union;

13 "No objection to acceding to all Soviet demands,  
14 except the cession of the Northern Kuriles.

15 "4. In case Germany should collapse or con-  
16 clude a separate peace, and general peace should be  
17 realized through the good offices of the Soviet Union;

18 "No objection to acceding to all demands of the  
19 Soviet Union.

20 "5. In case the Soviet attitude towards Japan  
21 should deteriorate, and the latter desire to guard against  
22 Soviet attack;

23 "No objection to acceding to all Soviet demands.

24 That ends that exhibit.

25 To show the efforts of the accused to end the



1 war, I tender in evidence the affidavit of Widar Bagge,  
2 presently Swedish Minister to Egypt, and formerly Minister  
3 to Japan, defense document 1778, and certificate account-  
4 ing for the non-production of documents, defense document  
5 2894.

6 ACTING PRESIDENT: They will be admitted in  
7 evidence.

8 CLERK OF THE COURT: Defense document 1778  
9 will receive exhibit No. 3558.

10 Defense document 2894 will receive exhibit No.  
11 3558-A.

12 (Whereupon, the documents above re-  
13 ferred to were marked defense exhibits No.  
14 3558 and No. 3558-A, respectively, and  
15 received in evidence.)

16 MR. FURNESS: I read that exhibit:

17 "I am Widar Bagge, a citizen of the Kingdom of  
18 Sweden and presently Swedish Minister to Egypt.

19 "I was from January, 1937 to September, 1945,  
20 Swedish Minister to Japan. In this capacity I had con-  
21 versations with Japanese nationals regarding peace  
22 treaties. I had a Japanese friend named Bunshiro SUZUKU  
23 whom I had known for a long time and in whom I had great  
24 confidence. He was not a politician but had excellent  
25 connections in the political world and was very well

1 informed. We sometimes discussed the political situa-  
2 tion and one day in the middle of September 1944, he said  
3 he had important news. He then outlined a plan to ob-  
4 tain peace and mentioned the concessions that Japan would  
5 be prepared to make. He told me that Prince KONOYE was  
6 behind this feeler and that he, Mr. SUZUKI, was acting  
7 as a go-between. He then outlined the plan to obtain  
8 peace and mentioned the concessions that Japan would be  
9 prepared to make. The main feature was that all  
10 territories conquered during the war would be returned.  
11 Even the possibility of giving up Manchukuo might be  
12 taken into consideration. Mr. SUZUKI told me that  
13 Prince KONOYE and a group of men around him were re-  
14 sponsible for this plan which they wanted me to forward  
15 to the Swedish Government with the request that through  
16 Swedish channels a feeler should be made in London. It  
17 was considered that it might be somewhat easier to find  
18 understanding for such a plan in Great Britain than in  
19 the United States. Of course, I reported everything to  
20 Stockholm.

21  
22 "During the following months I often met my  
23 friend and discussed with him the political situation  
24 and the peace problem. I heard from him and from other  
25 sources that at this moment the Allied request for un-  
conditional surrender was one of the greatest obstacles



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9 prepared to make. The main feature was that all  
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13 Prince KONOYE and a group of men around him were re-  
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15 to the Swedish Government with the request that through  
16 Swedish channels a feeler should be made in London. It  
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18 understanding for such a plan in Great Britain than in  
19 the United States. Of course, I reported everything to  
20 Stockholm.  
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22 "During the following months I often met my  
23 friend and discussed with him the political situation  
24 and the peace problem. I heard from him and from other  
25 sources that at this moment the Allied request for un-  
conditional surrender was one of the greatest obstacles

1 to peace. Even those Japanese who would be inclined to  
2 surrender could not think of such a decision as long as  
3 they did not know to some extent what the nation might  
4 be exposed to. If it was to be feared the Emperor  
5 would be treated with insult or that the Japanese na-  
6 tional pride would be humiliated, then I was told that  
7 everybody thought it preferable to continue the war and  
8 fight to the bitter end. I had conversations with Mr.  
9 Mamoru SHIGEMITSU shortly before he resigned as Foreign  
10 Minister of the KOISO Cabinet on April 7, 1945, before  
11 I left for Sweden on April 13, 1945. It was known that  
12 I was returning to Europe and I was told that it was  
13 that fact that decided the Foreign Minister to take up  
14 the peace question with me. Mr. SHIGEMITSU sent an old  
15 friend of mine, Mr. Tadashi SAKAYA, former Japanese  
16 Minister to Helsingfors, to see me. I gathered from my  
17 conversation with him that the purpose of sending him  
18 was to get a preliminary impression on the peace problem  
19 and to probe my sincerity. Few days after my talk with  
20 Mr. SAKAYA I was asked to come and see Mr. SHIGEMITSU  
21 himself. He was in fact very frank. He did not con-  
22 ceal his opinion about the war situation but said that he  
23 thought it rather bad. He blamed the military clique  
24 and said that now it was for the Japanese diplomats to  
25 try to get the country out of the war. He spoke at



1 length about the Emperor as a peace-loving man who had  
2 always been against the war. He said that he himself,  
3 as well as most of the members of the Japanese diplo-  
4 matic service, had been against the war from the  
5 beginning. He requested me very earnestly to do what-  
6 ever I could in order to find out the possibilities of  
7 obtaining peace for Japan, i.e., a negotiated peace.  
8 He asked me to collaborate for this purpose with Mr.  
9 Suemasa OKAMOTO, Japanese Minister to Stockholm, who  
10 was then to report to Tokyo. From my conversation with  
11 Mr. SHIGEMITSU, I retained a vivid memory of his express  
12 earnest desire which I believe to have been sincere to  
13 do everything in his power to end the war as soon as  
14 possible, even at great sacrifice to his country.

15 "A few days later Mr. SAKAYA again came to see  
16 me at the Swedish Legation. He told me that the peace  
17 question was very urgent and that Mr. SHIGEMITSU hoped  
18 I would leave as soon as possible and go straight to  
19 Stockholm to take the matter up with my government.

20 "The resignation of the KOISO Cabinet a few  
21 days later came very unexpectedly, of which Mr. SHIGE-  
22 MITSU was Foreign Minister. Mr. Shigenori TOGO ac-  
23 cepted the portfolio as Foreign Minister and the next  
24 day the same emissary as before called on me to say that  
25 Mr. TOGO had been informed of the conversations between

1 Mr. SHIGEMITSU and myself and that he took the same atti-  
2 tude to the peace question.

3 "After I arrived in Sweden in May, 1945, while  
4 still Minister to Japan, I went to see Mr. OKAMOTO. I  
5 asked him whether he had received any confidential tele-  
6 grams about efforts to negotiate peace and I told him  
7 that I had several serious talks with Mr. SHIGEMITSU as  
8 Foreign Minister before leaving Japan. I told him that  
9 Mr. SHIGEMITSU had been very frank and had asked me to  
10 make a peace feeler. Mr. OKAMOTO replied that this was  
11 a very serious matter but that he had not heard anything  
12 about it. I told him that Mr. SHIGEMITSU had resigned  
13 just before I left Tokyo, that Mr. TOGO had succeeded  
14 him, and I asked Mr. OKAMOTO to make inquiries as to  
15 whether or not I should continue my work on this peace  
16 effort. Mr. OKAMOTO said that he would send a telegram.

17 "About two weeks later we met again and he told  
18 me that he had just received a telegram from Mr. TOGO,  
19 stating that since this had been a matter handled by the  
20 former cabinet, it would require some investigation which  
21 would take some time before Mr. OKAMOTO would be informed  
22 definitely. Both Mr. OKAMOTO and I were very disappointed  
23 because of this reply. I remember, however, that at the  
24 time when Mr. TOGO took over the portfolio as Foreign  
25 Minister it was mentioned in Tokyo as an important point



1 to his credit that he had a strong position in Moscow  
2 since the time he was Japanese Ambassador there. Later  
3 on it has also become known that he had preferred to put  
4 in his peace efforts in Moscow."

5 I will not read the rest of it.  
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MR. FURNESS: I assume the certificate of non-availability, No. 2894 -- has that been marked?

Finally, attention is called to Exhibit 6, "The Instrument of Surrender", dated the 2nd day of September, 1945, and signed by the defendant SHIGEMITSU by command of and in behalf of the Emperor of Japan and the Japanese Government.

That concludes at this time the evidence to be presented in the individual phase of the accused SHIGEMITSU.

ACTING PRESIDENT: Is counsel for the accused SHIMADA ready to proceed?

MR. BRANNON: Yes, we are ready.

ACTING PRESIDENT: Mr. Brannon.

MR. BRANNON: We move now to the personal defense of the accused, former Admiral Shigetaro SHIMADA.

While in the present century the civilized nations of the world began to place restraints upon the waging of war and, indeed, unanimously committed themselves to the proposition that war was a terrible and unwanted thing, the shouting truth, however, is that they never declared it to be unavoidable. From the days of the Hague Convention through the period of the Kellogg-Briand Pact, all designed to enchain the



1 progress of potential wars, we are faced with the  
2 shocking revelation that beneath the brilliant plead-  
3 ings of the spokesmen who championed such causes there  
4 was one ringing reservation. It was that the respective  
5 governments did not see fit to remove the right to war  
6 against their fellow nations if national security was  
7 threatened. And, moreover, and more revealing still,  
8 is the treasured and tightly guarded prerogative that  
9 such nations should decide for themselves what facts  
10 constitute a threat to their security.

11 It is for the convenience of the Tribunal,  
12 therefore, that we now point out the personal defense  
13 of this accused is predicated upon this principle of  
14 established international law. Since it can not be  
15 denied that governments are composed of mortal men, a  
16 government to decide that it is imperiled or threatened  
17 by another nation must act through an individual or  
18 individuals. These individuals in turn depend upon  
19 their own thought processes in order to arrive at a  
20 conclusion which will direct their government's line  
21 of action. It is this thought process of the individual  
22 that becomes all-important for, if the nation itself  
23 reserved that right to decide whether war is necessary  
24 to protect its security, certainly then the individual,  
25 as a component part of that government, also reserves

unto himself that unquestioned privilege.

1        If, therefore, he surveys the complicated situation  
2 before him with sincere and honest appraisal of the  
3 issues at hand and arrives at an honest conclusion  
4 that his country is jeopardized, threatened and  
5 imperiled through the actions of other powers and that  
6 war is the only remedy, can he be branded, in the words  
7 of the prosecutor, as a murderer, brigand, pirate or  
8 plunderer? If the individual is a man of normal  
9 intelligence, untainted background and unquestioned  
10 loyalty to his country it must appear evident that  
11 we are penetrating into a potentially dangerous field  
12 of international jurisprudence to rule that the factual  
13 background which prompted and motivated his thinking  
14 and action is not a complete and adequate personal  
15 defense.  
16

17        Now, therefore, the evidence to be addressed  
18 to the Tribunal is designed along this line of thought.  
19 It will reveal Admiral SHIMADA as a seafaring naval  
20 man who first attained public office on October 18,  
21 1941, after basic world conditions affecting the Far  
22 East had all but crystallized. It will not be denied,  
23 and is readily admitted, that the accused joined the  
24 TOJO Cabinet as Navy Minister and that he later voted  
25 for war. It will not be denied that after the



1 commencement of hostilities he conscientiously applied  
2 himself toward winning that war. Alleging not only that  
3 the Japanese Government itself was justified in the  
4 action it took, we now go further toward opening the  
5 faucets of understanding that will lead to the individ-  
6 ual thinking that prompted this accused to act.

7 For the purpose of explaining how and why  
8 the accused SHIMADA was appointed Navy Minister, we  
9 call as our first witness the man who appointed him,  
10 former Admiral Koshira OIKAWA.  
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1 K O S H I R O O I K A W A, recalled as a witness  
2 on behalf of the defense, having been previously  
3 sworn, testified through Japanese interpreters  
4 as follows:

5 ACTING PRESIDENT: You are reminded that you  
6 are still on your former oath.

7 MR. BRANNON: Will the witness be handed  
8 defense document 2890?

9 (Whereupon, a document was handed  
10 to the witness.)

11 DIRECT EXAMINATION

12 BY MR. BRANNON:

13 Q Will you tell the Tribunal whether that is  
14 your affidavit and whether or not it is true and  
15 correct?

16 A It is my affidavit, and the contents are true.

17 MR. BRANNON: I offer in evidence defense  
18 document 2890, the affidavit of Koshiro OIKAWA.

19 ACTING PRESIDENT: It may be admitted in  
20 evidence.

21 CLERK OF THE COURT: Defense document 2890  
22 will receive exhibit No. 3559.

23 (Whereupon, the document above  
24 referred to was marked defense exhibit  
25 No. 3559 and received in evidence.)



MR. BRANNON: I shall read the affidavit:

1       My name is Koshiro OIKAWA. I was formerly  
2 an Admiral in the Japanese Navy serving as Navy  
3 Minister from September 5, 1940 until October 18,  
4 1941.

5       "When the Third KONOYE Cabinet fell it be-  
6 came my duty to recommend a successor as Navy Minister  
7 in the new cabinet to be formed. Since I have testi-  
8 fied here before relative to the naval attitude dur-  
9 ing the time I served as Navy Minister, I will con-  
10 fine my testimony to the matters affecting the  
11 appointment as Navy Minister of the accused, former  
12 Admiral SHIMADA.  
13

14       \*I decided not to succeed myself as Navy  
15 Minister before I ever heard that Lieutenant General  
16 TOJO was to become the new premier. I had made up  
17 my mind that a new man might better function in that  
18 capacity than I had and that as a matter of political  
19 morality it was best that I not succeed myself. At  
20 that time I had heard from Prince KONOYE that there  
21 was a strong possibility of Prince HIGASHIKUNI being  
22 named the new Prime Minister. Therefore, it was not  
23 because TOJO became the new premier that I did not  
24 succeed myself. I had been a member of two different  
25 cabinets, each of which had resigned, and I simply

thought it was time for a new man to take over.

1           \*Up to that time no Navy Minister in the  
2 history of Japan had ever been appointed except from  
3 the ranks of senior officers on the active list.  
4 Consequently, the candidates to be considered for the  
5 new appointment were necessarily limited. According  
6 to my best recollection, the ranking naval officers  
7 in order of seniority at that time were as follows:  
8 Prince FUSHIMI, Admiral NAGANO, Admiral HYAKUTAKE,  
9 Admiral KATO, Takayoshi, Admiral HASEGAWA, myself,  
10 Admiral SHIOZAWA, Admiral YOSHIDA, Zengo, Admiral  
11 YAMAMOTO, Isoroku and Admiral SHIMADA.

13           "Of course, Prince FUSHIMI, being of royal  
14 blood and advanced in years, was not considered at all.  
15 Admiral NAGANO was Chief of Naval General Staff.  
16 Admiral HYAKUTAKE was on the verge of retirement and  
17 was not considered qualified. Admiral KATO had served  
18 for the last two years in a nominal assignment as a  
19 member of the Supreme War Council and was too long  
20 removed from naval affairs to be considered. Admiral  
21 HASEGAWA was then Governor General of Formosa, which  
22 was an important post. Admiral SHIOZAWA was also to  
23 be retired. Admiral YOSHIDA had been my predecessor  
24 in the Second KONOYE Cabinet and had been forced to  
25 give up his post because of ill health. Admiral YAMAMOTO



1 was then Commander in Chief of the Combined Fleet.

2 Because of his naval ability on the sea he was con-  
3 sidered indispensable in that post. Admiral SHIMADA  
4 was next in line.

5 "From the evening of October 16, 1941 until  
6 I arose the following morning I carefully deliberated  
7 as to whom to recommend as Navy Minister. Around 11 A.M.  
8 that morning I went to see Prince FUSHIMI and told him  
9 that I considered SHIMADA as my logical successor and  
10 he agreed that SHIMADA was the best choice of available  
11 candidates. My opinion was definitely formulated on  
12 the morning of October 17, 1941 and before I knew TOJO  
13 was to assume the premiership. Therefore, there is  
14 absolutely no truth to the allegation that Admiral  
15 SHIMADA was appointed because TOJO wanted him to be.  
16 To my knowledge Admiral SHIMADA and TOJO were not even  
17 acquainted at that time.

18 "Admiral SHIMADA came to Tokyo on October 17th  
19 and that evening at the Navy Minister's official residence  
20 I conveyed to him my desire that he accept my recommen-  
21 dation as next Navy Minister. He refused, stating that  
22 he had been out of touch with current affairs for some  
23 time and felt that there were others better qualified.  
24 He asked me to continue on, but I told him of my  
25 previous decision on that matter. I asked him to

1 consider the matter over night. The next morning  
2 around 8 o'clock Admiral SHIMADA was again summoned  
3 to the official residence of the Navy Minister and  
4 there both Admiral NAGANO and myself discussed the  
5 question of his appointment with him. At that time the  
6 Cabinet Formation Headquarters called on the phone,  
7 urgently requesting that the new Navy Minister be  
8 recommended since all of the other governmental posts  
9 except that of Navy Minister had been decided. After  
10 renewed insistence by both NAGANO and myself, Admiral  
11 SHIMADA agreed to accept my recommendation.

12 "Admiral SHIMADA and I continued our convers-  
13 ations relative to the Navy's views on pending negoti-  
14 ations with America and the need of arriving at a peace-  
15 ful solution of the difficulties if possible. He fully  
16 agreed to my position and we discussed the procedure to  
17 be followed in carrying out the Navy viewpoint. He then  
18 went to see Premier TOJO for the purpose of stating a  
19 prerequisite to his acceptance of the post of Navy  
20 Minister, which was to continue negotiations sincerely  
21 and earnestly and to approach the Japanese United States  
22 negotiations from a completely new state.

23 "I must emphasize the fact that Admiral SHIMADA  
24 was selected simply because he was a high ranking  
25 Admiral in the Japanese Navy, whom I thought possessed



1     excellent qualifications for the post. The procedure  
2     followed in recommending him was no different than  
3     that pursued in the past. He and I shared the same  
4     views and the decision of the Navy to fight was  
5     entirely dependent upon the then existing international  
6     situation, which took a violent turn for the worse."

7             You may examine.

8             ACTING PRESIDENT: Mr. Chief Prosecutor.  
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## CROSS-EXAMINATION

BY MR. KEENAN:

1 Q Admiral, the choice of Minister of the Navy  
2 made in the middle of October of 1941 was of vital  
3 importance to the whole Japanese nation, was it not?

4 A Generally speaking, that is what I thought.

5 Q There had been a failure, during the last  
6 KONOYE Cabinet, to obtain harmony between the Army  
7 and the Navy as to the policy of Japan, is that not  
8 true?

9 A As to most of the policies, I do not --  
10 as to most of the national policies, I do not believe  
11 that there were any opinions on which the Army and  
12 Navy disagreed. But on the question of whether to  
13 continue the Japanese-American negotiations, there  
14 were several points on which the Army and Navy were  
15 not in accord.  
16

17 I should like to continue, that since, at  
18 the time, the question of initiating war against the  
19 United States had not yet been discussed -- correction:  
20 As that question had not yet been given much consider-  
21 ation, the important problem at that time was the  
22 solution of the China Incident, and on that question  
23 there was not too much discrepancy between the Army  
24 and Navy views.  
25



1 Q What was the difference between the view of  
2 the Army and the Navy on that point?

3 A As I said before, the Army and Navy held  
4 different views over the question of whether or not  
5 it was possible to continue further negotiations be-  
6 tween Japan and America.

7 Q That is to say, the Army wanted to institute  
8 war immediately and the Navy was not willing to join  
9 in that decision at that time; is that not correct?

10 A I do not know whether the Army had by that  
11 time reached the stage where they desired an immedi-  
12 ate commencement of hostilities, but the Navy was  
13 firmly convinced that all efforts should be made to  
14 continue negotiations with the United States and by  
15 peaceful means to solve pending problems between them  
16 and thus to avert war.

17 Q You were a member of the KONOYE Cabinet from  
18 September 5, 1940 until October 18, 1941; is that not  
19 correct?

20 A Yes.

21 Q And did you not, as Navy Minister, attend  
22 the Cabinet meetings?

23 A I did.

24 Q And did you not know that General TOJO, as  
25 War Minister, was conveying the general view to the

1 Army of the subject of immediate war with the Western  
2 Powers some time before September, 1941?

3 A I have no such recollection at all. I don't  
4 think he did.

5 Q Well, was TOJO advocating further concessions  
6 to the Western Powers in the negotiations?

7 A At first I believed that he showed an earnest  
8 desire to continue to have the negotiations continued.  
9 But later I began to feel that he entertained doubts  
10 as to whether it was possible to continue the Japan-  
11 ese-American negotiations.

12 Q About when would you fix the time that TOJO  
13 expressed such doubts as you relate?

14 A I don't have an exact recollection as to the  
15 date.

16 MR. BRANNON: I am just a little late on  
17 that, Mr. President, but we object to this line of  
18 questioning as being far outside the scope of the  
19 affidavit.  
20

21 ACTING PRESIDENT: The objection is over-  
22 ruled.

23 Q Do you remember an Imperial Conference that  
24 took place in the early part of September, 1941?

25 A Yes, I do.

Q Is that the 5th of September, 1941, if you



1 recall, or 6th?

2 A Probably it was some time around that date.

3 Q And was there not a decision reached as to  
4 the policy of Japan at that Imperial Conference?

5 A I think there was.

6 Q Did that have to do with the subject matter  
7 of war with the United States and Great Britain and  
8 the Netherlands?

9 MR. BRANNON: If the Tribunal please, I must  
10 again object as being far outside the scope of the  
11 affidavit. We are rehashing matters that could have  
12 been brought up before. This is the individual de-  
13 fense of the accused SHILADA. The affidavit confines  
14 itself to his appointment alone.

15 MR. KEENAN: I would like to be heard on  
16 that if there is any doubt in the Court's mind as to  
17 the propriety of that question.

18 ACTING PRESIDENT: We would like to hear you.  
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1 MR. KEENAN: If the Court please, this is a  
2 key witness. He has to do with one of the most  
3 important things relating to aggressive war. From the  
4 record in this case it is apparent that there is a  
5 very considerable amount of evidence that would lead  
6 to the conclusion that the question of war or peace  
7 was being debated at this vital period and that the  
8 Army took one view and the Navy took another and it  
9 was the position of the Navy pro tempore that stopped  
10 the war. Leaving aside the invasion of China, there  
11 is no more important event in this entire trial in  
12 the last eighteen months. Time and again we have heard  
13 the expression of the need of resolving or procuring  
14 harmony between the Army and Navy. They are honeyed  
15 phrases but the actual fact was of getting someone in  
16 the Navy who would be willing to agree to the policy  
17 of warfare and warfare practically forthwith.

18 It is true that this affidavit concerns the  
19 subject matter of how the accused SHIMADA happened to  
20 be chosen as Navy Minister at this critical period, but  
21 I submit that we should not be lulled into quiescence  
22 by the bland statement that he was just chosen because he  
23 was next in line without carefully examining all of  
24 the circumstances. Learned counsel for the accused may  
25 have forgotten that within the last few moments he made



1 a statement from this lectern that this witness  
2 selected and chose and named SHIMADA as Navy Minister.  
3 We certainly would like to have an opportunity to ask  
4 him fully the reason why he made this choice, so  
5 critical on a vital point, and that I believe is before  
6 this Court for its ultimate determination.

7 MR. BRANNON: May I be heard just once more?

8 ACTING PRESIDENT: Mr. Brannon.

9 MR. BRANNON: The prosecutor in all of this  
10 long oration that he made has not touched the point --

11 MR. KEENAN: If the Court please, I object to  
12 two arguments by one counsel on a single matter in  
13 violation of the rules of this Court, and I ask that  
14 these rules be enforced.

15 ACTING PRESIDENT: If the rules are being  
16 broken it is because I invited him to speak.

17 MR. BRANNON: The learned prosecutor has not  
18 answered my objection which was that he is outside the  
19 scope of the affidavit and that it is improper cross-  
20 examination, a rule laid down by this Tribunal. This  
21 witness has lived in Tokyo since the conclusion of the  
22 war. He could have been called at any time by the  
23 prosecution but they seek now, in an individual defense,  
24 to go far beyond the scope and purpose of the affidavit  
25 and to bring in fill-up matter for other portions of

OIKAWA

CROSS

1 their case.

2 We renew our objection.

3 ACTING PRESIDENT: By a majority the objec-  
4 tion is overruled.

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1                   MR. KEENAN: Will you please repeat the  
2 question to the witness.

3                   (Whereupon, the question was  
4 read by the official court reporter.)

5           A    The Navy took the interpretation that the  
6 Imperial Conference of 6 September did not make war  
7 against these countries as its principal subject, but  
8 that, for instance, if the Japanese-American negotia-  
9 tions were not satisfactorily concluded things might  
10 develop to such a state as that.

11               I should like to add that the decision was that  
12 if by the middle of October there was no prospect  
13 that the Japanese-American negotiations would be con-  
14 cluded satisfactorily the situation might be such that  
15 we might have to go to war -- that we might have to  
16 decide to go to war. A decision to go to war is a very  
17 grave matter and should not be taken until after many,  
18 many conferences had been held. The situation at the  
19 time of the Imperial Conference of 6 September was  
20 such that no one had the thought of immediate war.  
21 We were concerned with the prospect that the situation  
22 might develop into such a state where war would be  
23 unavoidable. We did go so far as to use the statement  
24 "a decision for war" but in actuality we didn't go  
25 that far.

...the commencement of war, was not the comment made by someone at the 6th conference. ...the subject of peace first and ...the direct exam-

MR. BHANNON: Again I object on the ground that is far outside the scope of the direct exam-

ACTING PRESIDENT: The same ruling would apply. ...you recall that remark being made at the ...Admiral?

...it? ...of Staff, Chief of the Naval General ...NO, said if there were any doubts ...quite willing to have the agenda, ...a changed. ...mark that the agenda was ...peace should be discussed ...war afterwards? There was

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...ment, wasn't there, and

...quite sure on this point. ...matter I think that it was the ...but since it is a matter of ...I should not like to commit

PRESIDENT: We will recess for fifteen

Whereupon, at 1445, a recess was ...til 1500, after which the proceedings ...sumed as follows:)

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1 Q The first point on the agenda for the Imper-  
2 ial Conference was the matter of preparation for war,  
3 was it not? That is the September 6th conference.

4 A Preparation for war and not the opening of  
5 hostilities, not the commencement of war.

6 Q Was not the comment made by someone at the  
7 Imperial Conference that orders were reversed, that  
8 they should take up the subject of peace first and  
9 of war later? Do you recall that being said?

10 MR. BRANNON: Again I object on the ground  
11 that it is far outside the scope of the direct exam-  
12 ination.

13 ACTING PRESIDENT: The same ruling would apply.  
14 Objection overruled.

15 Q Do you recall that remark being made at the  
16 conference, Admiral?

17 A I do.

18 Q Who made it?

19 A The Chief of Staff, Chief of the Naval General  
20 Staff, Admiral NAGANO, said if there were any doubts  
21 on that point he was quite willing to have the agenda,  
22 the order of the agenda changed.

23 Q Who made the remark that the agenda was  
24 in the wrong order, that peace should be discussed  
25 first and preparation for war afterwards? There was

1 one individual made that statement, wasn't there, and  
2 can't you name who it was?

3 A My memory is not quite sure on this point.  
4 Thinking back over the matter I think that it was the  
5 Emperor who said that, but since it is a matter of  
6 such grave importance I should not like to commit  
7 myself.

8 ACTING RESIDENT: We will recess for fifteen  
9 minutes.

10 (Whereupon, at 1445, a recess was  
11 taken until 1500, after which the proceedings  
12 were resumed as follows:)  
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1 MARSHAL OF THE COURT: The International  
2 Military Tribunal for the Far East is now resumed.

3 ACTING PRESIDENT: Mr. Chief Prosecutor.  
4 BY MR. KEENAN (Continued):

5 Q There developed much dissention and even  
6 great bitterness between TOJO and KONOYE in early  
7 October 1941, did there not?

8 A I was unable to have my earphones on in  
9 time. I could not catch the first part of the ques-  
10 tion. May I have it repeated?

11 (Whereupon, the Japanese court  
12 reporter read.)

13 A As far as I know TOJO himself was careful  
14 that he would not give in to such emotions,

15 Q Well, do you recall, Admiral, that that  
16 feeling of bitterness was so intense that TOJO refused  
17 to speak to the Prime Minister KONOYE?

18 A No, I do not know that.

19 Q But you do know that there were strong  
20 emotions felt by TOJO that he made a great effort to  
21 restrain, is that correct?

22 A I shall state it in other words. In view of  
23 the critical situation it appeared to me that he was  
24 careful to prevent any emotional differences or splits  
25 within the cabinet. At that time I met with TOJO

1 continuously, and we felt that there should not only  
2 be no differences between TOJO and KONOYE, but that  
3 we should be careful to avoid any emotional splits  
4 between the army and the navy itself.

5 Q Well, Admiral, you won't deny knowledge of  
6 the fact that there was strong dissention and dif-  
7 ferences of views between TOJO as War Minister and  
8 KONOYE as Prime Minister during these early days in  
9 October 1941, will you?

10 A I am unable to deny it or to confirm it.

11 Q Well, were they seeing eye to eye on the  
12 main crisis that was confronting Japan? Is that what  
13 you would have this Court believe?

14 A I said that there was no emotional opposition  
15 between the two, but there were differences of views,  
16 of course.

17 Q And that difference in view, briefly, was  
18 that TOJO was in favor of going to war in early Octo-  
19 ber or by the middle of October unless the terms  
20 specified by Japan were accepted by the United States  
21 and Great Britain and the Netherlands; isn't that true?

22 A At that time the view was that if the  
23 Japanese-American negotiations were not successfully  
24 concluded by the middle of October then it would be  
25 unavoidable for Japan to start preparations for war.



1 It was just to that degree, and I do not believe  
2 that -- we had not yet decided to enter a war directly.

3 THE MONITOR: The latter part should be  
4 corrected: At that time the problem of initiating  
5 war immediately was not even discussed as a problem yet.

6 Q Well, you refer to preparations, Admiral.  
7 Did you not have knowledge of the fact that the fleet  
8 under Admiral YAMAMOTO had already been preparing by  
9 way of practices for the attack on Pearl Harbor?

10 A I don't know about that, but the position  
11 of the navy at that time was that the appropriations  
12 it had received under the budget were limited solely  
13 to such expenses needed for the settlement of the  
14 Sino-Japanese conflict, and the navy was given no  
15 appropriations other than such sums. There were no  
16 items in the budget expressly for the purpose of  
17 preparing for a Japanese-American war. No steps were  
18 taken for such a war.

19 Q And did you learn about the preparations that  
20 Admiral YAMAMOTO was making for the attack upon Pearl  
21 Harbor, and if so when?

22 A I do not know that.

23 Q Did you learn about the preparations for  
24 the attack upon Pearl Harbor at any time up to the  
25 present?

1       A    I heard of that after the war, of course,  
2   merely a study undertaken at a naval academy, of course.  
3   As is true in other nations, our naval college, too,  
4   conducted studies, which had been going on for several  
5   decades, I believe. That is possible. But the actual  
6   plan which led to the war I did not learn of until  
7   after the war had begun -- the Japanese-American War  
8   had begun.

9       Q    You do know that the KONOYE Cabinet, the  
10   Third KONOYE Cabinet, fell, do you not?

11      A    Yes, I do.  
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Q Can you state briefly the main reason why KONOYE's cabinet failed; why he resigned?

A At that time I heard from KONOYE his intentions of resigning. I believe this was two or three days before the cabinet actually resigned. From what I heard then, he stated that the situation had reached such a complicated state that he felt that with his small powers he was unable to solve the crisis, and that in looking back over the past history of Japan, the only method of solving such crises was for the Imperial House to take steps directly. He felt, in looking back over Japan's history of many years, this was the only way.

KONOYE further stated that at the present time -- at that time -- there was a high officer of the army, the very able Prince HIGASHIKUNI, that he felt it would be better for such a person to assume direct control and that a person such as he could assist him through his political experiences, and, further, that this would be a way of furthering the accomplishment of arriving at a peaceful settlement. He therefore said that he wished to resign after recommending Prince HIGASHIKUNI. This was the first time that I had heard such words from Prince KONOYE, when he revealed his thoughts to me.

Q You were, therefore, surprised that a  
1 harmonious cabinet like that of KONOYE's last cabinet  
2 would fall by reason of the Premier's resignation;  
3 is that correct?

A I am unable to understand the purport of  
4 that question quite well. I wonder if I may have it  
5 repeated?  
6

Q I will repeat it. As you understood, there  
7 was harmony in the KONOYE Cabinet, is that correct?  
8

A From the standpoint of emotions, I do not  
9 believe that there were any differences. But with  
10 regard to political questions, there were differences  
11 of views.  
12

Q Well, Admiral, I have been attempting to get  
13 you to state clearly what the differences in views  
14 were. But I will not persist in that effort any longer.  
15 I will go to another subject.  
16

You do say in your affidavit, and I quote:  
17 "As a matter of political morality, it was  
18 best that I not succeed myself."  
19

Will you state as briefly as you can what you  
20 mean by the words "political morality"?  
21

A To express more concretely the situation at  
22 that time, the problem was how to settle the compli-  
23 cated problems which had arisen, and it was felt that  
24  
25



the next cabinet should "wipe the slate clean and start afresh," to use a word which was used at that time.

Q And that is what political morality means?

A No, I had not finished yet. Now, if it became the duty of the new cabinet to wipe the slate clean and to make a new start, I felt that if we members of the cabinet were to remain in the next cabinet it would not be proper for us to remain. It was my belief that it would be going contrary to this policy of making a new start for us old members of the cabinet to stay on in the new, and I felt that as a minister of state, such a view should be my morals.

Q Is it not a fact that you were informed that they didn't intend to leave the slate clean very long?

A I do not understand the question.

Q By that I mean that the question of peace or war with the United States and Great Britain and the Netherlands would be decided in the question of a very few weeks. Didn't you know that?

A At that time the expression "wiping the slate clean" did not mean that an early decision for war would be made, but it meant that the decisions of the Imperial Conference of 6 September, which set a time limit of the middle of October of taking steps if no prospects of reaching a settlement were reached, that such matters

1 would be scrapped and that, viewing the international  
2 situation anew, a new approach would be made to the  
3 problem. At that time no one had any idea of waging a  
4 war within the matter of a few weeks simply by the fact  
5 of wiping the slate clean.

6 Q Well, regardless of wiping the slate clean,  
7 was it not determined that if Japan would not obtain  
8 its minimum demands, it would have to decide upon the  
9 matter of war within a very brief time because of matters  
10 of supply, and the like? Isn't that true?

11 A I did not necessarily think so in judging  
12 from the situation existing at that time.  
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1 Q Is it a fact that Prince KONOYE told you,  
2 in substance, just previous to his resignation in  
3 October, 1941, that the Navy should be ashamed of  
4 itself for not taking a positive position in stating  
5 that it would not support a war with the Western  
6 Powers? Do you recall that conversation?

7 A KONOYE never told me such a thing like that.

8 Q You were well acquainted with Admiral SHIMADA  
9 before you recommended him for the position as Navy  
10 Minister?

11 A In the Japanese Navy there were very few men.--  
12 especially among those with the rank of admirals it  
13 was customary, it was a fact, that they all knew each  
14 other very well, were very friendly with each other and  
15 understood each other's character.

16 Q Well, I am not asking for apologies about it.  
17 I am asking if it was a fact that you knew SHIMADA very  
18 well at the time you made the recommendation for him to  
19 take this important post in the Cabinet.

20 A Yes, I did know.

21 Q Is it not a fact that he had just returned from  
22 China on the 15th of September, 1941?

23 A Yes, that is true.

24 Q There he had been Commander in Chief of the  
25 Chinese Area Fleet?

A Yes, he was in that post.

1 Q Did not you and Chief of the Naval General  
2 Staff NAGANO meet him when he came back from what was  
3 alleged to be a career with distinguished military  
4 service on the 15th of September, 1941?

5 A Yes, we did go to meet him.

6 Q And was he not received on that same day in  
7 the morning by the Emperor of Japan?

8 A Yes, I believe so.

9 Q And were you not present at that audience, too?

10 A Yes, I was. I attended with him.

11 Q And do you recall that he made a detailed  
12 report to the Emperor of Japan about the war conditions  
13 in one and one-half years of service, such as the  
14 Chinese coastal blockade operations and the operations  
15 of the Navy Eagles? Do you recall that?

16 A As a rule reports made to the Throne on such  
17 occasions were not given in such details as mentioned.  
18 I don't recollect accurately the exact nature of SHIMADA's  
19 report at the time, but judging from the precedent of  
20 similar reports on other occasions, it is a general  
21 rule that a general report on the operations, the conduct  
22 of operations and matters of that nature, are reported  
23 and the details are not mentioned, such as war episodes  
24 and so on.  
25



A Yes, he was in that post.

1 Q Did not you and Chief of the Naval General  
2 Staff NAGANO meet him when he came back from what was  
3 alleged to be a career with distinguished military  
4 service on the 15th of September, 1941?

5 A Yes, we did go to meet him.

6 Q And was he not received on that same day in  
7 the morning by the Emperor of Japan?

8 A Yes, I believe so.

9 Q And were you not present at that audience, too?

10 A Yes, I was. I attended with him.

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12 report to the Emperor of Japan about the war conditions  
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14 Chinese coastal blockade operations and the operations  
15 of the Navy Eagles? Do you recall that?

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19 report at that time, but judging from the precedent of  
20 similar reports on other occasions, it is a general  
21 rule that a general report on the operations, the conduct  
22 of operations in matters of that nature, are reported  
23 and the details are not mentioned, such as war episodes  
24 and so on.  
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1 Q Would it refresh your recollection if I  
2 recall that he specifically, SHIMADA, referred to the  
3 work of the Navy Eagles' bombing of Chungking and the  
4 hinterlands of China? Do you recall that?

5 A I have forgotten completely about it and I  
6 am unable to recall that.

7 MR. KEENAN: I ask that the witness be shown  
8 the original of IPS document 3288.

9 (Whereupon, a document was handed  
10 to the witness.)

11 Q I ask you if you recognize that as the photo-  
12 stat of the Asahi Shimbun newspaper column of its  
13 edition of 8 September, 1941?

14 A I believe it is probably so.

15 Q I will ask you to examine that part of it that  
16 discusses the meeting of SHIMADA and yourself and  
17 NAGANO with the Emperor at 10:00 a.m. of September 15,  
18 1941.

19 A Yes, it is written here that we did have an  
20 audience with the Throne. I believe it was just as  
21 we -- it is written correctly.

22 MR. KEENAN: We offer that in evidence.

23 ACTING PRESIDENT: It will be admitted.

24 CLERK OF THE COURT: Prosecution document  
25 3288 will receive exhibit No. 3560.



(Whereupon, the document above referred to was marked prosecution exhibit No. 3560 and received in evidence.)

Q And that shows, does it not, that a report was made on the bombing of the City of Chungking during the time that SHIMADA was in charge of the Chinese Area Fleet?

A It is true that the bombing of Chungking took place during the time that SHIMADA was Commander in Chief of the Fleet in China waters.

Q And he, of course, in his position would have the responsibility on the spot for such bombings, would he not, for directing them?

(The witness started to speak.)

MR. BRANNON: Just a moment, please.

We object to that as a question for the Tribunal to decide. This man is just a witness and he has been asked his opinion as to whether the accused would be responsible for something.

MR. KEENAN: Mr. President, I am not attempting to get this witness to decide on whether or not the bombing of a city like Chungking was an act of aggressive war or a crime. I am trying to elicit from this witness, who besides being a witness was Navy Minister, where the responsibilities lie in the chain of command.

1           ACTING PRESIDENT: By a majority the objection  
2 is sustained.

3 BY MR. KEENAN (Continued):

4           Q   What was the position of SHIMADA while in  
5 China at the time the bombing of Chungking took place  
6 by the naval fliers, if you know?

7           A   I think he was the Commander in Chief of the  
8 Fleet in the China area.  
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1 Q As such, in the course of his duties, would  
2 he receive reports of bombings by naval fliers of  
3 cities -- Chinese cities, including Chunking?

4 A In the Japanese Navy, problems relating to  
5 operations are the responsibility of the Chief of  
6 the Naval General Staff. Therefore, I do not  
7 believe it would be appropriate for me to testify  
8 on such an issue, and, if it could be done, I think  
9 it should be -- such testimony should be made by  
10 someone connected with the Naval General Staff.

11 THE INTERPRETER: "Operational problems  
12 were not the direct responsibility to be the author-  
13 ity of the Naval General Staff."

14 Q If that wouldn't come within the chain of  
15 command of SHIMADA, can you explain why he would be  
16 making a report upon that subject to the Emperor of  
17 Japan upon his return from China?

18 MR. BRANNON: We object to that, Mr.  
19 President, on the ground that it is outside the  
20 scope of the affidavit. Not only that, he has  
21 penetrated -- the prosecutor -- into the China War  
22 again, when this affidavit itself is dedicated only  
23 to the fact of the appointment of Admiral SHIMADA by  
24 this witness.  
25

This potentially dangerous practice of

1 allowing the prosecutor to go far beyond the scope  
2 of the affidavit to examine on many, many new matters  
3 will not only prolong the trial but subjects defense  
4 counsel to the feeling that we do not know what  
5 witnesses to call in for definite and concise testi-  
6 mony because of the wide range the prosecution may  
7 be allowed in cross-examination.

8 The defense, throughout this trial, has  
9 been closely guarded and confined to the scope of  
10 the direct examination. We ask only that the  
11 prosecution be submitted to that same ruling.

12 MR. KEENAN: Mr. President, before compliance  
13 with any suggestion for sustaining the objection,  
14 I'd like to be heard very briefly.

15 ACTING PRESIDENT: Please proceed.

16 MR. KEENAN: Mr. President, we believe that  
17 the selection of SHIMADA as Naval Minister is one  
18 of the key points of this prolonged trial. In the  
19 cross-examination of a witness, I dislike to be  
20 compelled to state my purpose before I put a ques-  
21 tion, but in this instance --

22 The purpose is, Mr. President, to show --  
23 to determine whether or not Admiral OIKAWA took  
24 into consideration the type of man, his history,  
25 and his attitude toward aggressive war when he made



1 the significant, as he claims, very important  
2 recommendation for his selection. I want to put  
3 that question, and I want to lay the background for  
4 it.

5 I might state, for the benefit of the  
6 defense counsel, that that is my last question.

7 ACTING PRESIDENT: By a majority, the  
8 objection is sustained.

9 MR. KEENAN: We have no further cross-  
10 examination of this witness.

11 MR. LOGAN: I'd like to cross-examine on  
12 behalf of KIDO.

13 CROSS-EXAMINATION (Continued)

14 BY MR. LOGAN:

15 Q Admiral, the prosecutor was asking you  
16 about this conference in the Imperial presence on  
17 September 6, 1941. You stated that you could not  
18 recall, but you thought that the Emperor made a few  
19 remarks about the order of the agenda.

20 Now, I want to read to you an extract from  
21 the KIDO Diary of September 6, 1941, prosecution  
22 exhibit 1135, wherein Marquis KIDO said this: He  
23 had a conversation with the Emperor prior to the  
24 meeting, wherein Marquis KIDO said to him:

25 "Then I advised His Majesty that since

1 HARA, the President of the Privy Council, would  
2 ask important questions on His Majesty's behalf,  
3 the Emperor should only give a warning in conclusion  
4 that the Supreme War Command should exert every  
5 effort in order to bring about a diplomatic success  
6 inasmuch as the present decision was such an  
7 important one that it might lead to a war in which  
8 our national fortunes would be staked."

9 Now, after reading that to you, does that  
10 refresh your recollection that HARA, the President  
11 of the Privy Council, did ask questions?

12 A I have been able to recall just now, through  
13 the passage just read by Counsel Logan. At that  
14 time the question of whether or not to continue  
15 negotiations, whether this will be brought up first  
16 or not, was mentioned by the President of the Privy  
17 Council, Mr. HARA.

18 Q And, as a matter of fact, Admiral, you were  
19 the only one that answered HARA's questions on that  
20 at that meeting, is that right?

21 A At that time, I attended the meeting  
22 representing NAGANO and the Navy. Because I felt  
23 that I was representing NAGANO and the Navy, I  
24 expressed my views in that capacity. It was said  
25 afterwards, that NAGANO was silent because he had



1 different views, but that is not the case. I  
2 attended the meeting representing NAGANO and the  
3 Navy.

4 THE MONITOR: "I attended the meeting"  
5 should be corrected to "I spoke up."

6 Q And, isn't it a fact that the Emperor  
7 took the High Command to task for not answering  
8 the questions put to him by HARA, and that he ended  
9 by reciting the Emperor MEIJI's poem, "Yomo no Umi"?

10 A Yes, that was so.

11 MR. BRANNON: Mr. President, I think that  
12 is all of the questions to be asked. If I may,  
13 I ask that the witness be excused, so that he will  
14 not have to return tomorrow.

15 ACTING PRESIDENT: He may be excused on  
16 the usual conditions.

17 (Whereupon, the witness was excused.)

18 We will adjourn until tomorrow morning at  
19 nine-thirty.

20 (Whereupon, at 1600, an adjourn-  
21 ment was taken until Friday, 5 December  
22 1947, at 0930.)  
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